



Committee on Education Appropriations

**Tuesday, April 4, 2006
4:00 p.m. - 6:00 p.m.
212 Knott**

Revised



Florida House of Representatives

Fiscal Council
Education Appropriations Committee

Allan Bense
Speaker

Joe Pickens
Chair

Agenda

Date: Tuesday, April 4, 2006

Location: 212 Knott Building

Time: 4:00 p.m. – 6:00 p.m.

- I. Call to Order
- II. Opening Remarks
- III. Consideration of the following bill(s):
 - a. **HB 19** University Building Designation by Justice
 - b. **HB 135 CS** Charter Schools by Greenstein
 - c. **HB 263** Florida Prepaid College Program by Meador
 - d. **HB 741 CS** Florida Center for Solid & Hazardous Waste Management by Greenstein
 - e. **HB 765** Discounted Computers & Internet Access for Students by Jennings
 - f. **HB 795 CS** Student Financial Assistance by Flores
 - g. **HB 801 CS** Florida Ready to Work Certification Program by Patterson
 - h. **HB 873 CS** Building Designations by Brandenburg
 - i. **HB 899** Regional Consortium Service Organizations by Richardson
 - j. **HB 987** Tax on Sales, Use, & Other Transactions by Gottlieb
 - k. **HB 1085** Hillsborough County School District by Traviesa
 - l. **HB 1171** Travel to Terrorist States by Rivera
 - m. **HB 1237 CS** Advanced Science & Technology Research by Meador
 - n. **HB 1373 CS** Supplemental Educational Services by Attkisson
 - o. **HB 7039** K-8 Virtual Schools by Stargel
 - p. **HB 7097** Postsecondary Education by Patterson
 - q. **HB 7103** Charter Schools by Stargel
 - r. **HB 7119** Student Athlete Recruiting by Arza
 - s. **HB 7171** Charter Schools by Choice and Innovation, Legg
- IV. Closing Remarks
- V. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 19
SPONSOR(S): Justice
TIED BILLS:

University Building Designation

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	10 Y, 0 N	Davis	Tilton
2) Education Appropriations Committee		Hamon <i>K.W.H.</i>	Hamon <i>K.W.H.</i>
3) Education Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

Current law does not permit a state building, road, bridge, park, recreation complex, or similar facility to be named after a living person unless the name designation is approved by law. Pursuant to this requirement, if a university wishes to name a particular building or facility after a living person, the designation must be approved by the Legislature.

The bill permits the University of South Florida St. Petersburg in Pinellas County to designate the building known as Coquina Hall as "H. William Heller Hall" and to erect suitable markers and signs acknowledging this designation. The bill takes effect upon the effective date of the retirement or resignation of H. William Heller from, or the termination of H. William Heller's employment with, the University of South Florida St. Petersburg.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Section 267.062, F.S., provides that no state building, road, bridge, park, recreational complex, or similar facility can be named after a living person unless approved by law. Therefore, if a university wishes to name a particular building or facility after a living person, the designation must be approved by the Legislature.

A section-by-section analysis of the bill follows. The biographical information was provided by the University of South Florida St. Petersburg.

Section 1: The bill designates the building known as Coquina Hall at the University of South Florida St. Petersburg in Pinellas County as "H. William Heller Hall." Coquina Hall currently houses the College of Education. The bill directs the University of South Florida St. Petersburg to erect suitable markers and signs acknowledging the designation.

H. William Heller is a professor at the University of South Florida St. Petersburg. A former Vice President of the St. Petersburg campus, Dr. Heller joined the staff of the University of South Florida in 1992. Since that time, he has been awarded more than \$18 million in grants and contracts and is currently responsible for directing, as principle investigator, projects funded in excess of \$1 million.

Dr. Heller has been awarded the Presidential Citation for Exemplary Performance as Vice-Chairman of the White House Conference on Handicapped Individuals as well as the Teacher Educator of the Year Award, Teaching Education Division by the Council of Exceptional Children and the Merrill Publishing Company. He was also the recipient of the 1991 E. Wallace Wallin Award by the Council for Exceptional Children. This award, the highest honor bestowed by the Council, is predicated on excellence in leadership, service, and accomplishments in the education of children with exceptionalities. He has been awarded the United Way Alex de Tocqueville Society Volunteer Service Award, the Outstanding Service Award by the U.S. Air Force and U.S. Department of Defense, and the Romaine Mackie Leadership Award in Special Education by the Pioneer Division of the Council for Exceptional Children. In 2002, Dr. Heller was honored by the City of St. Petersburg for a "Decade of Excellence," and August 21, 2002, was proclaimed Bill Heller Day by the City of St. Petersburg. He was recently nominated for the Outstanding Leadership Award in Special Education by the Council for Exceptional Children; the recipient will be announced in April 2006. In addition, Dr. Heller was selected by faculty to become the first recipient of the Excellence in Professional Service Award from the University of South Florida St. Petersburg.

Dr. Heller has served in leadership roles with the Council for Exceptional Children, the American Association for Mental Retardation, the National Board for Professional Teaching Standards, the American Association for Colleges for Teacher Education, and the National Council for Accreditation of Teacher Education. He served two terms as the head of the Faculty Council for the St. Petersburg campus and was selected by the administration to chair the committee to revise the University of South Florida St. Petersburg Strategic Plan. His professional contributions include more than 350 presentations and publications.

Section 2: Provides an effective date of retirement or resignation of H. William Heller from, or the termination of H. William Heller's employment with, the University of South Florida St. Petersburg.

C. SECTION DIRECTORY:

This bill does not create, repeal, or amend any statutory sections. Please refer to Effect of Proposed Changes for a section by section analysis of the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

Please see FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

There will be an insignificant impact associated with the university erecting suitable markers for this name designation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

This bill does not appear to raise constitutional issues.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled
2 An act relating to university building designation;
3 designating a building located at the University of South
4 Florida St. Petersburg as "H. William Heller Hall";
5 directing the university to erect suitable markers;
6 providing an effective date.

7
8 WHEREAS, under H. William Heller's leadership, the
9 University of South Florida St. Petersburg has seen new
10 developments, including the addition of lower-division academic
11 programming which advanced the campus from an institution
12 serving only juniors, seniors, and graduate students to a full
13 4-year institution, and

14 WHEREAS, under H. William Heller's leadership, the
15 University of South Florida St. Petersburg initiated the process
16 to achieve separate accreditation from the Southern Association
17 of Colleges and Schools, and

18 WHEREAS, under H. William Heller's leadership, the
19 University of South Florida St. Petersburg expanded course and
20 program offerings so that students now are able to take entire
21 course loads at the University of South Florida St. Petersburg
22 and graduate on a timely basis, and

23 WHEREAS, under H. William Heller's leadership, the
24 University of South Florida St. Petersburg won approval for
25 residence halls on campus, a first for a University of South
26 Florida regional campus, and

27 WHEREAS, under H. William Heller's leadership, the
28 University of South Florida St. Petersburg obtained nearly a 30 -

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percent budget increase as a result of 2002 legislative appropriations, representing a milestone for the campus and providing an opportunity for the university and campus to shape academic programs for years to come, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg fostered university/community partnerships with the Florida Humanities Council, YWCA, All Children's Hospital, USGS, Pinellas County schools, City of St. Petersburg, and Bayboro neighbors, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg increased diversity among students and faculty, realizing a gain of 20.5 percent in minority recruitment, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg expanded disability services, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg implemented a successful SAT preparation program for minorities, increasing student SAT scores by an average of more than 100 points, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg completed an economic impact study with projections to 2012, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg initiated and completed revision of the 1994-1995 master plan for the campus, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg increased access to University of South Florida offerings throughout Pinellas County by offering as many as 10 off-campus sites, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg increased student enrollment by 55 percent in 5 years, surpassing FTE enrollment goals, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg tripled enrollment in the Honors Program in 2 years, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg implemented three new degree programs, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg nearly tripled the number of faculty members, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg developed a responsive governance infrastructure for the campus, establishing the first A&P and USPS councils, as well as the Vice President's Council, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg spearheaded the Urban Initiative, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg implemented a St.

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Petersburg College presence on campus that provides educational opportunities for approximately 500 students, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg created an internal infrastructure that permits greater input into campus decisionmaking by all groups on campus, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg promoted the offering of Saturday classes on campus, and

WHEREAS, under H. William Heller's leadership, the University of South Florida St. Petersburg increased external funding exponentially, and

WHEREAS, the Legislature finds it appropriate to honor H. William Heller's leadership and contributions to the University of South Florida St. Petersburg and the Tampa Bay community,
NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The building known as Coquina Hall, located on the campus of the University of South Florida St. Petersburg in Pinellas County, is designated "H. William Heller Hall."

(2) The University of South Florida St. Petersburg is directed to erect suitable markers designating H. William Heller Hall as described in subsection (1).

Section 2. This act shall take effect upon the effective date of the retirement or resignation of H. William Heller from,

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111 | or the termination of H. William Heller's employment with, the
112 | University of South Florida St. Petersburg.

HB 135 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 135 CS Charter Schools
SPONSOR(S): Greenstein
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1030

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Choice & Innovation Committee</u>	<u>7 Y, 0 N, w/CS</u>	<u>Hunker</u>	<u>Kooi</u>
2) <u>Civil Justice Committee</u>	<u>7 Y, 0 N</u>	<u>Shaddock</u>	<u>Bond</u>
3) <u>Education Appropriations Committee</u>	<u></u>	<u>Eggers</u> <i>ME</i>	<u>Hamon</u> <i>L.W.A.</i>
4) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill provides that a district school board sponsor of a charter school will not be held liable for civil damages for actions or omissions committed by the charter school's governing board, its officers, or employees.

This bill also provides that the sponsor's duty to monitor a charter school may not be used as the basis for a lawsuit against the sponsor. However, a school district sponsor remains subject to tort liability for acts or omissions under the sponsor's direct authority. This bill further insulates a school district from assumption of contractual debts of the charter school to cover all contracts made between the charter school governing body and a third party.

This bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government -- This bill reduces the contractual liability of school district sponsors for the contracts of charter schools.

B. EFFECT OF PROPOSED CHANGES:

Background

Charter schools are public schools that operate under a performance contract, or a "charter," entered into with a sponsoring school district. The charter school statute (s. 1002.33, F.S.) frees a charter school from many regulations created for traditional public schools while holding such a charter school accountable for academic and financial results.

Current Law

School Board Sponsor Liability

Section 1002.33, F.S. is silent with respect to whether a sponsor school district can be held liable for the acts and omissions of charter schools or their agents, employees or governing board. In *P.J. v. Gordon*, the United States District Court for the Southern District of Florida ruled that the school board's statutory responsibilities for approving the school's charter and monitoring its implementation do not subject it to civil liability for actions and omissions relating to the day-to-day management of the charter school.¹ The court noted the district sponsor's statutory duties involve ensuring academic accountability, monitoring revenues and expenditures, and approving and monitoring the provisions of the charter agreement. The court specifically ruled that s.1002.33, F.S. imposes no duty on the school board sponsor to monitor or supervise the hiring, training or supervision of the charter school's employees or to ensure that the charter school maintains adequate procedures for ensuring the safety and welfare of its students.²

Sovereign Immunity

"Article X, section 13 of the Florida Constitution provides 'absolute immunity for the state and its agencies absent waiver by legislative enactment or a constitutional amendment.'" ³ Section 768.28(5), F.S., provides a limited waiver of the state's sovereign immunity by making the state and its agencies and subdivisions liable for tort claims in the same manner and to the same extent as a private individual under the circumstances. Florida's Fourth District Court of Appeal recently affirmed that certain discretionary, planning-level decisions of a school board remain immune from tort liability.⁴

Contract Liability

In the event of a non-renewal or termination of a charter, s. 1002.33, F.S. currently prevents a district from assuming any of the charter school's debts for service contracts, except where the district and the

¹ *P.J. v. Gordon*, 359 F.Supp. 2d 1347, 1351 (SD Fla. 2005).

² *Id.* at 1349-50.

³ *Orlando v. Broward County*, 920 So. 2d 54 (Fla. 4th DCA 2005) (quoting *Cir Ct. of the Twelfth Jud. Cir. v. Dep't of Natural Resources*, 339 So. 2d 1113, 1114 (Fla. 1976).

⁴ *Id.* (citing *Commercial Carrier Corp. v. Indian River County*, 371 So. 2d 1010, 1022 (Fla. 1979)(holding that although s. 768.28 evinces the intent of the legislature to waive sovereign immunity on a broad basis, nevertheless, certain "discretionary" governmental functions remain immune from tort liability)).

charter school governing board previously agreed in detail in writing that the district would assume the debt.

Effect of Bill

This bill codifies the court's ruling in *P.J.* with regard to the district's immunity from suit for day-to-day operations (acts and omissions) of a charter school as well as employment actions of a charter school. The bill further provides the district with protection from any private cause of action based on the monitoring responsibilities of the district with regard to any charter school it sponsors.

In the context of charter schools, to the extent a sponsor school district's monitoring duties may be properly characterized as "discretionary" or "planning-level," they may already be immune from tort liability under the doctrine of sovereign immunity. The bill serves as legislative intent *not* to waive sovereign immunity for such duties.

This bill expands the contract limitation to include all contractual debts of the charter school, not just those for services. Finally, the bill includes a provision that school district sponsors remain subject to liability for acts or omissions under the sponsor's direct authority as described in s. 1002.33, F.S.

C. SECTION DIRECTORY:

Section 1, amends s. 1022.33, F.S. relating to charter schools.

Section 2, provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Access to Courts

Article I, section 21 of the Florida Constitution provides: "The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay."⁵ In *Kluger v. White*,⁶ the Florida Supreme Court held that where a right to access the courts for redress for a particular injury predates the adoption of the access to courts provision in the 1968 state constitution, the Legislature cannot abolish the right without providing a reasonable alternative unless the Legislature can show an overpowering public necessity to abolish the right and no alternative method of meeting such public necessity.⁷

Based on the ruling by the court in *P.J. v. Gordon* it does not appear that a person has a cause of action to sue a school board for the torts of a charter school. To the extent that this bill merely codifies existing law, it may not implicate the access to court provision.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Choice and Innovation Committee adopted one amendment and reported the bill favorably with a Committee Substitute (CS). The amendment narrowed the scope of the expression of intent not to waive sovereign immunity.

⁵ See generally 10A Fla. Jur. 2d, Constitutional Law, ss. 360-69.

⁶ *Kluger v. White*, 281 So. 2d 1 (Fla. 1973).

⁷ *Kluger* at 4.

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CHAMBER ACTION

The Choice & Innovation Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to charter schools; amending s. 1002.33, F.S.; providing that the sponsor of a charter school shall not be liable for civil damages for certain actions; providing that the duty to monitor a charter school shall not be the basis for a private cause of action; prescribing limits on immunities of a charter school sponsor; expanding a school district's immunity from assumption of contractual debts; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (5) and paragraph (f) of subsection (8) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.--

(5) SPONSOR; DUTIES.--

(b) Sponsor duties.--

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24 1.a. The sponsor shall monitor and review the charter
25 school in its progress toward the goals established in the
26 charter.

27 ~~b.2.~~ The sponsor shall monitor the revenues and
28 expenditures of the charter school.

29 ~~c.3.~~ The sponsor may approve a charter for a charter
30 school before the applicant has secured space, equipment, or
31 personnel, if the applicant indicates approval is necessary for
32 it to raise working capital.

33 ~~d.4.~~ The sponsor's policies shall not apply to a charter
34 school.

35 ~~e.5.~~ The sponsor shall ensure that the charter is
36 innovative and consistent with the state education goals
37 established by s. 1000.03(5).

38 ~~f.6.~~ The sponsor shall ensure that the charter school
39 participates in the state's education accountability system. If
40 a charter school falls short of performance measures included in
41 the approved charter, the sponsor shall report such shortcomings
42 to the Department of Education.

43 g. The sponsor shall not be liable for civil damages under
44 state law for personal injury, property damage, or death
45 resulting from an act or omission of an officer, employee,
46 agent, or governing body of the charter school.

47 h. The sponsor shall not be liable for civil damages under
48 state law for any employment actions taken by an officer,
49 employee, agent, or governing body of the charter school.

50 i. The sponsor's duties to monitor the charter school
51 shall not constitute the basis for a private cause of action.

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2. Immunity for the sponsor of a charter school under
subparagraph 1. applies only with respect to acts or omissions
not under the sponsor's direct authority as described in this
section.

3. Nothing contained in this paragraph shall be considered
a waiver of sovereign immunity by a district school board.

A community college may work with the school district or school districts in its designated service area to develop charter schools that offer secondary education. These charter schools must include an option for students to receive an associate degree upon high school graduation. District school boards shall cooperate with and assist the community college on the charter application. Community college applications for charter schools are not subject to the time deadlines outlined in subsection (6) and may be approved by the district school board at any time during the year. Community colleges shall not report FTE for any students who receive FTE funding through the Florida Education Finance Program.

(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.--

(f) If a charter is not renewed or is terminated, the charter school is responsible for all debts of the charter school. The district may not assume the debt from any contract ~~for services~~ made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in writing by both the district and the governing body of the school and that may not reasonably be assumed to have been satisfied by the district.

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80 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 263

Florida Prepaid College Program

SPONSOR(S): Mealor

TIED BILLS:

IDEN./SIM. BILLS: SB 550

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Colleges & Universities Committee</u>	<u>9 Y, 0 N</u>	<u>Davis</u>	<u>Tilton</u>
2) <u>Education Appropriations Committee</u>	<u></u>	<u>Hammock</u>	<u>Hamon</u> <i>K.L.H.</i>
3) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill removes a restriction on the types of postsecondary educational institutions in which a qualified beneficiary may use his or her benefits under the Florida Prepaid College Program (Florida Prepaid). The requirement is deleted that an accredited independent college or university in the state of Florida be not-for-profit to be eligible for the transfer of benefits.

The bill appears to have no fiscal impact on state or local government and a positive fiscal impact on the private sector. See the FISCAL ANALYSIS section for further details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty- The bill removes the restriction that an accredited independent college or university in the state of Florida be not-for-profit to be eligible for the transfer of benefits, thereby expanding the number of choices available to beneficiaries of the Florida Prepaid College Plan.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Prepaid College Program (Florida Prepaid) is a state program created to encourage families to save for the expenses of higher education. It was established in 1987 to allow Florida residents to pay the cost of higher education in advance at a fixed level and with statutory state guarantee.¹

The program allows the purchaser to establish an account for a beneficiary (the student) and to lock in the future cost of a two-year community college program, a four-year university program, or a combination of two years of each. Local fee and dormitory plans may be purchased in addition to the tuition plans. Account holders may make lump sum or periodic payments. Prices are based on the beneficiary's age and actuarial assumptions about rates of tuition, fee, and dormitory cost inflation and investment return.²

Florida Prepaid is the largest program of its type in the nation. As of June 2005, the program has sold 1,052,080 contracts.³ Florida Prepaid is administered by the Florida Prepaid College Board (the Board), which is administratively housed in the State Board of Administration (SBA). The SBA provides administrative and investment services and approves the Board's Comprehensive Investment Strategy. Otherwise, the Board operates independently.⁴

Currently, a qualified beneficiary may apply the benefits of an advance payment contract toward:

- An independent college or university that is located and chartered in Florida that is not-for-profit, that is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS) or the Accrediting Council for Independent Colleges and Schools (ACICS), and that confers degrees in accordance with s. 1005.02, F.S.;
- An out-of-state college or university that is not-for-profit and is accredited by a regional accrediting association and that confers degrees; or
- An applied technology diploma program or career certificate program conducted by a community college listed in s. 1004.02(2) F.S., or a career center operated by a district school board.

Effect of Proposed Changes

The bill removes the requirement that an accredited independent college or university in the state of Florida be not-for-profit to be eligible for the transfer of Florida Prepaid benefits. The not-for-profit requirement remains in effect for out-of-state colleges and universities.

¹ See s. 1009.97, F.S.

² See s. 1009.98, F.S.

³ Florida Prepaid College Board

⁴ See ss. 1009.971 and 1009.973, F.S.

According to Department of Education and Florida Prepaid representatives, removing the not-for-profit requirement would make 18 additional institutions eligible for the transfer of benefits.

The bill provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends paragraph (a) of subsection (3) of s. 1009.98, F.S., deleting the requirement that an accredited independent college or university in the state of Florida be a not-for-profit institution to be eligible for transfer of benefits.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill appears to have a positive fiscal impact on the private sector. The transfer of benefits to an accredited for-profit institution provides contract purchasers with increased flexibility and may increase enrollment at such institutions.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled
2 An act relating to the Florida Prepaid College Program;
3 amending s. 1009.98, F.S.; deleting the requirement that
4 an independent college or university be a not-for-profit
5 institution to be eligible for transfer of benefits;
6 providing an effective date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Paragraph (a) of subsection (3) of section
11 1009.98, Florida Statutes, is amended to read:

12 1009.98 Florida Prepaid College Program. --

13 (3) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE
14 COLLEGES AND UNIVERSITIES AND TO CAREER CENTERS. --A qualified
15 beneficiary may apply the benefits of an advance payment
16 contract toward:

17 (a) An independent college or university that is located
18 and chartered in Florida, ~~that is not for profit~~, that is
19 accredited by the Commission on Colleges of the Southern
20 Association of Colleges and Schools or the Accrediting Council
21 for Independent Colleges and Schools, and that confers degrees
22 as defined in s. 1005.02.

23
24 The board shall transfer or cause to be transferred to the
25 institution designated by the qualified beneficiary an amount
26 not to exceed the redemption value of the advance payment
27 contract at a state postsecondary institution. If the cost of
28 registration or housing fees at such institution is less than

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29 | the corresponding fees at a state postsecondary institution, the
30 | amount transferred may not exceed the actual cost of
31 | registration and housing fees. A transfer authorized under this
32 | subsection may not exceed the number of semester credit hours or
33 | semesters of dormitory residence contracted on behalf of a
34 | qualified beneficiary. Notwithstanding any other provision in
35 | this section, an institution must be an "eligible educational
36 | institution" under s. 529 of the Internal Revenue Code to be
37 | eligible for the transfer of advance payment contract benefits.

38 | Section 2. This act shall take effect July 1, 2006.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 741 CS

Florida Center for Solid and Hazardous Waste Management

SPONSOR(S): Greenstein

TIED BILLS:

IDEN./SIM. BILLS: SB 876

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	10 Y, 0 N, w/CS	Davis	Tilton
2) Education Appropriations Committee		Hamon <i>K.W.H.</i>	Hamon <i>K.W.H.</i>
3) Education Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

This bill designates the Florida Center for Solid and Hazardous Waste Management as the "William W. 'Bill' Hinkley Center for Solid and Hazardous Waste Management" and directs the Department of Environmental Protection, in coordination with the University of Florida and the University of Florida Foundation, to erect suitable markers acknowledging the designation. The bill provides an effective date of July 1, 2006.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0741b.EDAS.doc

DATE: 3/13/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

A section-by-section analysis of the bill follows. The biographical information was provided by the sponsor of the proposed designation.

Section 1: The bill designates the Florida Center for Solid and Hazardous Waste Management (FCSHWM) as the "William W. 'Bill' Hinkley Center for Solid and Hazardous Waste Management." The Department of Environmental Protection, in coordination with the University of Florida and the University of Florida Foundation, is directed to erect suitable markers reflecting this designation.

The FCSHWM was created by the Legislature in 1988 as a Type I center to coordinate research, training, and service activities related to waste management.¹ The center is responsible for coordinating research efforts at Florida's universities, providing information and technical assistance to government, business, and industry, and fulfilling public needs in the area of waste management.² The center is housed at the University of Florida in Gainesville.

The FCSHWM works closely with 9 universities in an effort to fulfill their two major objectives: 1) to develop and test innovative, low-cost, and environmentally sound methods to manage solid and hazardous waste; and 2) to present research results to public and private sectors to develop practical solutions for waste management problems. The center also has a strong research relationship with the Department of Environmental Protection (DEP).

William W. "Bill" Hinkley was employed at the DEP for almost thirty years, serving most recently as the Chief of the Bureau of Solid and Hazardous Waste. A champion of environmental protection, he was responsible for the drafting and enactment of the 1988 Solid Waste Management Act, the growth of the Florida recycling program, and the development of several regulations governing hazardous waste.

Mr. Hinkley was also involved in several national activities aimed at environmental protection, including the U.S. Environmental Protection Agency, the Energy Research Advisory Board of the U.S. Department of Energy, and the National Recycling Coalition.

For his dedication to environmental protection, Mr. Hinkley earned many awards and recognitions. In 2004, he became an honorary member of the Solid Waste Association of America (SWANA). He also earned such honors as being named the Conservationist of the Year by the Florida Wildlife Federation, receiving the Outstanding Contribution Award from SWANA, and receiving a Special Recognition Award from Keep Florida Beautiful, Inc. Mr. Hinkley was also highly regarded among his peers and colleagues, being recognized for Sustained Exemplary Performance in 1999 and being named the DEP Employee of the Year in 2001.

Bill Hinkley passed away on September 12, 2005.

Section 2: Provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

¹ s. 1004.47, F.S.

² <http://www.floridacenter.org/about1.htm>, Florida Center for Solid and Hazardous Waste Management, About the Center.

This bill does not create, repeal, or amend any statutory sections. Please refer to EFFECT OF PROPOSED CHANGES for a section by section analysis of the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

Please see FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

There will be an insignificant impact associated with the Department of Environmental Protection, the University of Florida, and the University of Florida Foundation erecting suitable markers for the name designation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

This bill does not appear to raise constitutional issues.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Colleges and Universities Committee adopted an amendment to HB 741. The bill was reported favorable with a Committee Substitute (CS). The CS directs the Department of Environmental Protection, in coordination with the University of Florida and the University of Florida Foundation, to erect suitable markers reflecting the designation of the Florida Center for Solid and Hazardous Waste Management as the "William W. 'Bill' Hinkley Center for Solid and Hazardous Waste Management."

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CHAMBER ACTION

The Colleges & Universities Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Florida Center for Solid and Hazardous Waste Management; designating the Florida Center for Solid and Hazardous Waste Management as the William W. "Bill" Hinkley Center for Solid and Hazardous Waste Management; directing the Department of Environmental Protection, in coordination with the University of Florida and the University of Florida Foundation, to erect suitable markers; providing an effective date.

WHEREAS, efforts to conserve and recycle the natural resources of this state have been well served by the tireless efforts of William W. "Bill" Hinkley throughout his career of public service, and

WHEREAS, Mr. Bill Hinkley has provided leadership, candor, and enthusiasm to the public debate at federal, state, and local levels of government on matters concerning solid and hazardous waste management, and

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23 WHEREAS, the laws in this state governing waste management
24 to protect the public health, safety, and welfare have been
25 directly impacted by the active participation of Mr. Bill
26 Hinkley, and

27 WHEREAS, Mr. Bill Hinkley has stressed the promotion,
28 importance, and role of science in all his endeavors to help
29 improve the management of solid and hazardous waste, and

30 WHEREAS, the Florida Center for Solid and Hazardous Waste
31 Management (FCSHWM) was formed in 1988 by action of the
32 Legislature for the purpose of coordinating the research,
33 training, and service activities related to solid and hazardous
34 waste management conducted by state universities, and

35 WHEREAS, the data and information generated by research
36 sponsored by the FCSHWM has been an important factor in
37 decisions made by the Legislature, local governments, and the
38 Department of Environmental Protection, and

39 WHEREAS, Bill Hinkley has been a key staff member of the
40 Department of Environmental Protection for almost 30 years and
41 has been sought out by many members of the Senate and House of
42 Representatives for his thoughts and advice on a large number of
43 very diverse environmental matters that were the object of a
44 great deal of debate, and

45 WHEREAS, Bill Hinkley has always provided sound and
46 unbiased information and counsel to many members of the
47 Legislature, NOW, THEREFORE,

48
49 Be It Enacted by the Legislature of the State of Florida:

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51 Section 1. William W. "Bill" Hinkley Center for Solid and
52 Hazardous Waste Management designated; Department of
53 Environmental Protection to erect suitable markers.--

54 (1) The Florida Center for Solid and Hazardous Waste
55 Management is designated as the "William W. 'Bill' Hinkley
56 Center for Solid and Hazardous Waste Management."

57 (2) The Department of Environmental Protection, in
58 coordination with the University of Florida and the University
59 of Florida Foundation, is directed to erect suitable markers
60 designating the William W. "Bill" Hinkley Center for Solid and
61 Hazardous Waste Management as described in subsection (1).

62 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 765
SPONSOR(S): Jennings
TIED BILLS:

Discounted Computers and Internet Access for Students

IDEN./SIM. BILLS: SB 502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Choice & Innovation Committee</u>	<u>7 Y, 0 N</u>	<u>Hunker</u>	<u>Kooi</u>
2) <u>Education Appropriations Committee</u>	<u></u>	<u>Eggers</u>	<u>Hamon</u> <i>K.W.H.</i>
3) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill creates a program to offer computers and broadband Internet access at a discounted price to students enrolled in grades 5 through 12. The program requires the Department of Education (DOE) to negotiate with computer manufacturers and nonprofit corporations that obtain reconditioned computer hardware over the prices, hardware and software packages, warranties, and internet access packages. The bill directs the State Board of Education to make rules regarding implementation of the program.

The bill also creates a pilot project to be implemented by the Digital Divide Council in consultation with DOE to assist low-income students in purchasing discounted computers and Internet access services as negotiated by the DOE. The pilot project is to be funded in an amount determined by the General Appropriations Act, and the Digital Divide Council may accept additional grants from public and private sources to implement the project.

The fiscal impact of the bill would be determined in the General Appropriations Act. See the FISCAL COMMENTS section of the analysis.

The bill states that it shall take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill grants rulemaking authority to the State Board of Education to implement the discounted computers and internet program.

Empower Families – This bill benefits parents of public school students in grades 5 through 12 by providing them with an option to purchase discounted computers and internet packages negotiated by the Department of Education (DOE).

B. EFFECT OF PROPOSED CHANGES:

The 2005-2006 fiscal year budget provided \$49.9 million for public school technology, which is allocated to districts on a per-student basis. Districts use the funds for a number of technology needs and initiatives. Currently, there is no statewide program that provides students with discounted computers and internet access or that provides assistance to low-income students for the purchase of a computer and internet access.

This bill requires DOE to negotiate with computer manufacturers and with nonprofit corporations that obtain reconditioned computer hardware concerning prices of discounted computers and accessories, specialized software and hardware packages, and warranties. Also, the DOE is required to negotiate with broadband Internet access providers the prices of broadband Internet access packages and with non-broadband internet access providers in areas where broadband internet access is unavailable.

The bill requires the State Board of Education to adopt rules that provide for the integration of computer or technical training to students, the notification to parents of the discounted computer and Internet access choices available, the distribution of eligibility certificates, the locations where the discounted computers and Internet services are available, and how students may obtain and pay for the equipment and services.

The bill also creates a pilot project to be implemented by the Digital Divide Council in consultation with the DOE.¹ The bill creates this program to assist low-income students to purchase the discounted computers and Internet access services as negotiated by the DOE. The Digital Divide Council is required to identify the counties, grade levels, and low-income eligibility criteria for participation in the pilot project. The bill provides that the pilot project shall be funded through the General Appropriations Act and that the Digital Divide Council may accept grants from additional public and private sources to implement the project.

C. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law to establish a program to offer computers and internet access to students at a discounted price.

Section 2: Creates an unnumbered section of law to establish a pilot project to provide computers and internet access to low-income students at a discounted price. References funding provided in the General Appropriations Act.

¹ The Digital Divide Council was established by the 2001 Legislature and was created within the State Technology Office (STO). The STO was abolished in the 2005 Legislature Session; however, the Council is presently reorganizing under new council membership and will focus much of its future work on the coordination of multiple initiatives and funding streams from local and state organizations to impact technology literacy, accessibility, and learning for struggling and low income students and their families.

Senate Staff Analysis and Economic Impact Statement: SB 502, prepared by the Education Committee, 2006.

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may create an opportunity for parent-consumers to purchase computers and Internet services that would not otherwise exist. The manufacturers and non-profit organizations providing the computers may make sales to parent-consumers that would not otherwise have taken place.

D. FISCAL COMMENTS:

There will be an increase in state government expenditures to the extent the program and pilot project are funded by the General Appropriations Act (GAA). The House proposed General Appropriations Act (House Bill 5001, Specific Appropriation 138) contains \$1.7 million for Santa Fe Community College to implement a Rural and Urban Technology Initiative in a manner similar to the provisions of this bill.

There may be an indeterminate cost to the Department of Education for the costs associated with organizing the program, negotiating prices with computer manufacturers and internet service providers, and providing computer and technical training to students.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

This bill does not reduce the authority of counties or municipalities to raise revenues.

This bill does not reduce the percentage of a state tax shared with cities and counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules regarding integration of the pilot program into training students at the district level. It also directs the State Board of Education to make rules on notifying parents of the discounted computer and Internet access choices available, the distribution of eligibility certificates to students, and how and where computers and internet access service will be made available for purchase.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled

An act relating to discounted computers and Internet access for students; creating a program to offer discounted computers and Internet access to public school students and students in home education programs in grades 5 through 12; requiring the Department of Education to negotiate terms with computer manufacturers, certain nonprofit corporations, and broadband Internet access providers; requiring the State Board of Education to adopt rules, including rules for provision of technical training to students; requiring the Digital Divide Council to implement a pilot project to assist low-income students with purchasing discounted computers and Internet access services; requiring the council to identify eligibility criteria for participation in the pilot project; providing for funding and authorizing the council to accept grants to implement the pilot project; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Discounted computers and Internet access for students.--

(1) There is created a program to offer computers and Internet access at a discounted price to students enrolled in grades 5 through 12 in a public school, including a charter school, or a home education program in the state.

(2) The Department of Education shall negotiate with

29 computer manufacturers and with nonprofit corporations that
30 obtain reconditioned computer hardware concerning:

31 (a) The prices of discounted computers and whether
32 computer accessories such as printers or scanners will be
33 offered to the students at reduced prices.

34 (b) Specialized software and hardware packages, including,
35 but not limited to:

36 1. A word processor.

37 2. Software and hardware necessary to enable broadband
38 Internet access.

39 3. An operating system.

40 (c) The type of warranty that is to be provided to the
41 students and whether an extended warranty will be available to
42 the students and under what terms.

43 (3) The Department of Education shall negotiate with
44 broadband Internet access providers concerning the prices of
45 discounted broadband Internet access packages. In areas in which
46 broadband Internet access is not currently available, the
47 department shall negotiate with non-broadband Internet access
48 providers.

49 (4) The State Board of Education shall adopt rules
50 concerning:

51 (a) How to integrate into this program the provision of
52 computer or technical training to students in their respective
53 school districts.

54 (b) How parents and students may be notified of the
55 discounted computer and Internet access choices available.

56 (c) The distribution of eligibility certificates to the

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students, the locations at which discounted computers and Internet access services are available for purchase, and how students may obtain and pay for the equipment and services covered by this program.

Section 2. Discounted computers and Internet access for low-income students; pilot project.--

(1) The Digital Divide Council, in consultation with the Department of Education, shall implement a pilot project to assist low-income students to purchase discounted computers and Internet access services as negotiated by the department. The council shall identify counties, grade levels, and low-income eligibility criteria for participation in the pilot project.

(2) The pilot project shall be funded in an amount to be determined in the General Appropriations Act. The Digital Divide Council is authorized to accept grants from additional public and private sources to implement the pilot project.

Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 795 CS

Student Financial Assistance

SPONSOR(S): Flores

TIED BILLS:

IDEN./SIM. BILLS: SB 1750

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	9 Y, 1 N, w/CS	Hatfield	Tilton
2) Education Appropriations Committee		Hammock	Hamon
3) Education Council			
4)			
5)			

SUMMARY ANALYSIS

HB 795 creates the First Generation Matching Grants Program (program). The program is created to enable each state university and community college to provide donors with a matching grant incentive for contributions that will create grant-based student financial aid for undergraduate students who demonstrate financial need and whose parents have not earned a baccalaureate degree. The bill requires that applicants meet certain eligibility requirements to be eligible to receive a grant.

The bill requires appropriated funds for the program to be allocated by the Office of Student Financial Assistance (OSFA) to match private contributions on a dollar-for-dollar basis. The bill requires that 50 percent of the allocated funds be reserved for state universities and the remaining 50 percent for community colleges. Within this allocation, OSFA must reserve a proportionate allocation for each state university and community college on the basis of full-time equivalent enrollments. Funds that remain unmatched as of December 1 must be reallocated to state universities and community colleges that have remaining unmatched private contributions for the program on the basis of full-time equivalent enrollments.

Each participating state university and community college is required to establish an application process, determine student eligibility for initial and renewal awards in conformance with the eligibility requirements each applicant must fulfill, identify the amount awarded to each recipient, and notify recipients of the amount of their awards. The bill also requires annual reports by each participating institution.

This bill also revises provisions relating to the determination of a student's residency status for tuition purposes by extending residency status to any student, other than a nonimmigrant alien within the meaning of federal law, who meets the following criteria:

- Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma or its equivalent.
- Has attended a Florida high school for at least 3 consecutive years during such time.
- Has filed an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status or will file such application as soon as he or she is eligible to do so.

The House Proposed General Appropriations Bill (House Bill 5001, Specific Appropriation 79) provides an appropriation of \$14,000,000 for the program.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0795b.EDAS.doc

DATE: 3/13/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill creates the First Generation Matching Grant Program to provide financial aid to undergraduate students with financial need whose parents have not earned college degrees. In creating this program, the bill provides duties of state universities and community colleges participating in the program.

Safeguard individual liberty—The bill provides for grants to be awarded to eligible applicants to cover the annual cost of attendance at a state university or community college. Recipients of this grant have the ability to attend a state university or community college where previously this may not have been possible.

Empower families—The bill provides for grants to be awarded to eligible applicants to cover the annual cost of attendance at a state university or community college. This may benefit families who do not have the financial means to send a family member to college if a family member is awarded a grant under this program. The bill expands the categories of students who may be classified as residents for tuition purposes. Those who previously could not afford a post-secondary education may now be eligible for in-state tuition, providing a more affordable education.

B. EFFECT OF PROPOSED CHANGES:

Background

On January 11, 2006 Governor Bush announced his Access and Diversity Initiative (Initiative). According to the Governor's January 11th Press Release, the purpose of the Initiative is to provide incentives to traditionally underrepresented students seeking an education in Florida's state university system. The Initiative includes recommendations by the Governor for increased funding for need based financial aid, the creation of a new scholarship program titled the First Generation Matching Grants, and the creation of an Access and Diversity Commission (Commission).

In addition to the announcement of the Initiative, the Governor also signed Executive Order 06-05 creating the 17-member Commission. The Executive Order provides for the Commission to meet in conjunction with the Student Affairs Committee of the Florida Board of Governors to evaluate issues surrounding disadvantaged and traditionally underrepresented students and advocate and make recommendations concerning the following:

- Specific accountability and performance measures regarding traditionally underrepresented and economically disadvantaged students for the Board of Governors and state universities to include in their strategic plans or performance evaluations.
- Need-based financial aid: Enhanced public and private need-based aid and financial assistance and, specifically, increased funding for Florida Student Assistance Grants (FSAG).
 - According to the Governor's Press Release, the Governor plans to recommend a \$35.8 million increase in need-based funding through FSAG and will also recommend an additional \$1.1 million in funding for need-based financial aid at Florida's four Historically Black Colleges and Universities.
- College Board Partnership: Additional funding for the College Board Partnership to expand services that enhance student college readiness for traditionally underrepresented students.

Services include AP, PSAT and SAT teacher training; college admission test preparation; SAT preparation; tutoring programs to help students transition into college and family information on colleges.

- According to the Governor's Press Release, the Governor plans to recommend an increase in funding for the state's partnership with the College Board from \$7.1 million to \$10.1 million.
- Stanley Tate Project STARS SCHOLARSHIP Program: Additional funding for the STARS Program, which provides prepaid scholarships for at-risk, low-income students who remain drug and crime-free, stay in school and work with a mentor.
 - According to the Governor's Press Release, the Governor plans to recommend an increase in funding for this program by \$4 million, for a total of \$10 million. These state funds combined with private donations will provide an additional 2,090 scholarships, which pay for tuition at state universities and community colleges.
- College Reach-Out Program (CROP): Increased funding for CROP to provide additional after-school and weekend counseling and tutorial services, to increase participation in AP classes, to provide transportation to classes for dually enrolled students, and to purchase computers to provide increased access to the Florida Virtual School.
 - According to the Governor's Press Release, the Governor will recommend a \$1 million increase in funding for the CROP program. The funding will expand counseling and tutorial services, serving an additional 1,654 individuals, for a total of 10,200 students. It will also help expand after-school and Saturday programs, provide transportation to classes for dually enrolled students and assist in the purchase of computers to provide access to the Florida Virtual School across the 38 CROP post-secondary institutions.
- First Generation Matching Grants: The establishment of this program will provide scholarships to full-time students who are Florida residents, are the first in their families to attend college, and have demonstrated a financial need.
 - According to the Governor's Press Release, this \$6.5 million program will provide a dollar-for-dollar match for private donations to state universities
- University Presidents' Focus on Achievement Mentoring Partnership: Expanding mentoring to target low income middle school students and matching them with local campus compact mentors trained by Volunteer Florida Foundation. The purpose is to encourage economically disadvantaged and traditionally underrepresented students to pursue post-secondary goals and prepare these students for state university enrollment.

Executive Order 06-05 requires the Commission to present a Final Report on its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Board of Governors by June 30, 2006. At such time the Commission will also disband.

Residency

Current law designates certain categories of persons as residents for tuition purposes, such as active duty members of the Armed Services of the U.S. residing or stationed in Florida and their dependents, U.S. citizens living on the Isthmus of Panama who have completed 12 consecutive months of college work at the FSU Panama Canal Branch and their dependents, and active duty members of a foreign

nation's military who are serving as liaison officers and are residing or stationed in this state and their dependents.¹

Undocumented aliens, with certain exceptions as provided in federal law, may not establish legal residence in the state for tuition purposes because their residency in the state is in violation of federal law, as they have not been properly admitted into the United States.² Undocumented aliens are accordingly classified as nonresidents for tuition purposes. Many of these undocumented aliens attend Florida high schools and obtain a high school diploma or the equivalent, as the state may not bar these individuals from attending elementary, middle, or secondary schools.³ Due to the increased cost of attending a public post-secondary institution as a nonresident, these students may not be able to pursue their education at the post-secondary level.

Nonimmigrant aliens, as defined in 8 U.S.C. s. 1101(a)(15), are aliens lawfully admitted into the U.S. but whose duration of stay is set forth in the applicable visa under which admittance is granted. These classes include, among others, foreign diplomats and their dependents, temporary business or tourist visitors, crew of merchant vessels and civil aircraft, and foreign students having *bona fide* residences abroad that they do not intend to abandon. Most nonimmigrant visas, but not all, require the holder of the visa to intend to return to the nonimmigrant's country of residence upon termination of the visa. Students under an F-1 visa or an M-1 visa are required to intend to return to their country of residence. If a nonimmigrant stays beyond the limitations of the visa, the nonimmigrant is no longer lawfully within the U.S. and may be subject to deportation.⁴

Effect of Proposed Changes

The bill creates the First Generation Matching Grant Program (program), one of the seven initiatives addressed by the Governor's Executive Order. The program is created to enable each state university and community college to provide donors with a matching grant incentive for contributions that will create grant-based student financial aid for undergraduate students who demonstrate financial need and whose parents have not earned a baccalaureate degree.

The bill requires appropriated funds for the program to be allocated by the Office of Student Financial Assistance (OSFA) to match private contributions on a dollar-for-dollar basis. Matching funds must be generated through contributions pledged for the purpose of this program and not for any other state matching program. Pledged contributions are not eligible for matching prior to the actual collection of the total funds. The bill requires that 50 percent of the allocated funds be reserved for state universities and the remaining 50 percent for community colleges. Within this allocation, OSFA must reserve a proportionate allocation for each state university and community college on the basis of full-time equivalent enrollments. Funds that remain unmatched as of December 1 must be reallocated to state universities and community colleges that have remaining unmatched private contributions for the program on the basis of full-time equivalent enrollments.

The bill provides that payment of the state matching grant is to be transmitted to the president of each participating institution or his or her representative in advance of the student registration period.

Each participating state university and community college must establish an application process, determine student eligibility for initial and renewal awards in conformance with the eligibility requirements each applicant must meet, identify the amount awarded to each recipient, and notify recipients of the amount of their awards.

In order to be eligible to receive a grant from this program, the bill requires an applicant to:

¹ Section 1009.21(10), F.S.

² Most undocumented aliens, absent a change in federal law or a grant of amnesty, would not qualify for permanent residency.

³ See *Plyler v. Doe*, 457 U.S. 202, 102 S. Ct. 2382, 72 L.Ed.2d 786 (1982).

⁴ See <http://uscis.gov/graphics/services/tempbenefits/index.htm>, U.S. Citizenship and Immigration Services, Temporary Visitors.

- Be a resident for tuition purposes pursuant to s. 1009.21, F.S.
- Be a first-generation college student. For the purposes of this program, a student is considered "first-generation" if neither of the student's parents, as defined in s. 1009.21(1), F.S., earned a college degree at the baccalaureate level or higher.
- Be accepted at a state university or community college.
- Be enrolled for a minimum of six credit hours per term as a degree-seeking undergraduate student.
- Have demonstrated financial need by completing the Free Application for Federal Student Aid.

The bill requires that the award amount be based on the student's need assessment after any scholarship or grant aid, including, but not limited to, a Pell Grant or a Bright Futures award, has been applied. No award may exceed the institution's estimated annual cost of attendance for comparable undergraduate students attending the institution.

Each participating institution must report the eligible students to whom grant moneys are dispersed each academic term to OSFA by the date they establish. Institutions are also required to certify the amount of funds disbursed to each student and remit undisbursed funds to OSFA by June 1 of each year.

The bill also requires an annual report by each participating institution to be submitted to the Executive Office of the Governor, the Speaker of the House of Representatives, and the President of the Senate. Each community college must also report to the State Board of Education and each state university must also report to the Board of Governors. The annual report must include eligibility requirements for recipients, the aggregate demographics of recipients, retention and graduation rates of recipients, and a delineation of funds awarded to recipients.

The bill requires that the program be implemented as specifically funded.

Residency

The bill also revises provisions relating to the determination of a student's residency status for tuition purposes by extending residency status to any student, other than a nonimmigrant alien within the meaning of federal law, who meets the following criteria:

- Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma or its equivalent.
- Has attended a Florida high school for at least 3 consecutive years during such time.
- Has filed an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status or will file such application as soon as he or she is eligible to do so.

The effective date of the bill is July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Creates s. 1009.701, F.S., which creates the First Generation Matching Grant Program to provide financial aid to undergraduate students with financial need whose parents have not earned a baccalaureate degree; providing for appropriation, allocation, and distribution of funds; providing student eligibility requirements; providing the basis for the amount of awards; and providing duties of institutions participating in the program

Section 2: Amends s. 1009.21, F.S., providing an additional category within which students may be classified as residents for tuition purposes.

Section 3: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Please see FISCAL COMMENTS.

2. Expenditures:

Please see FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires matching funds; therefore, there will be an impact on the private sector as universities and community colleges will need donations to be made for this program in order to receive any funding from the state.

The bill provides for grants to be awarded to eligible applicants to cover the annual cost of attendance at a state university or community college. Recipients of this grant have the ability to attend a state university or community college where previously this may not have been possible.

In addition, students who, in the past, may have been unable to afford a post-secondary education will have expanded educational opportunities if they fall into the new category within which students may be classified as residents for tuition purposes.

D. FISCAL COMMENTS:

First Generation Matching Grant Program

The House Proposed General Appropriations Bill (House Bill 5001, Specific Appropriation 79) provides an appropriation of \$14,000,000 for the program.

Residency

Expanding the categories of students who may be classified as residents for tuition purposes may increase the number of students who enroll in state universities and community colleges because of the reduced cost to such students; therefore, these institutions may experience an increase in tuition and fee revenues. However, to the extent a student may have attended a state university or community college even if classified as an out-of-state student; an institution could experience a loss in tuition and fee revenues. Expanding the categories of students who may be classified as residents for tuition purposes could also result in the state funding more of the cost to provide instruction to such students.

The fiscal impact of the additional residency for tuition purposes category on funding required or award amount for programs such as Bright Futures, FSAG, and FRAG is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

The U.S. Constitution provides the Federal Government with preeminent power over the regulation of aliens within the U.S.⁵ Any state action that imposes discriminatory burdens upon the entrance or residence of aliens lawfully admitted into the U.S. conflicts with the Supremacy Clause of the U.S. Constitution.⁶ The bill specifically excludes certain nonimmigrant aliens from meeting eligibility requirements for establishing residency for tuition purposes. In *Toll v. Moreno*,⁷ a Maryland statute was struck down on Supremacy Clause concerns when the law categorically prohibited G-4 nonimmigrant aliens from acquiring in-state status for tuition purposes. G-4 nonimmigrant visa holders are not required to have intent to return to their country of residence. Unlike the Maryland law, the bill does not categorically prohibit a nonimmigrant alien from qualifying for residency; it provides only that a nonimmigrant may not qualify under the specific criteria outlined in the bill. There still remains a concern that the bill may be challenged because of the limitation on the ability of lawfully admitted nonimmigrant aliens to obtain in-state tuition status.

The bill authorizes any student to qualify for residency for tuition purposes if the student meets specified criteria. Accordingly, 8 U.S.C. s. 1623, which bars any alien who is unlawfully present in the United States from receiving any post-secondary education benefit on the basis of residence in the state unless a U.S. citizen or national is eligible for such benefit in the same amount, duration, and scope, would not be applicable.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

History of Similar Legislation in other States and the Federal Government

Nine other states have a similar law that provides students, who meet certain criteria, with an in-state tuition classification. These states are: California, Texas, New York, Utah, Washington, Illinois, Oklahoma, Kansas, and New Mexico. The laws differ slightly between the states, as some statutes offer state financial aid benefits along with the tuition classification, while other statutes are purely for tuition purposes. Currently, federal law prohibits illegal immigrant students from receiving federal loans and grants; work-study jobs are also prohibited.

After the Kansas legislation was signed into law in May 2004, a lawsuit was filed in the United States District Court of Kansas⁸ charging that the new law violated the U.S. Constitution's Equal Protection clause of the 14th Amendment⁹ and 1996 immigration laws.¹⁰ The lawsuit, the first of its kind, argued that the Kansas statute violated the federal law that prohibits states from giving public benefits to immigrants who are in the country illegally and was discriminatory to out-of-state students who pay a higher tuition rate. The plaintiffs were all students from out of state attending Kansas universities claiming that they had been denied the same in-state tuition benefits afforded to illegal immigrants. On July 5, 2005, the Court held that the students lacked standing under both the federal statute prohibiting states from offering in-state tuition to illegal aliens and the Equal Protection Clause.¹¹

⁵ See *Takahashi v. Fish & Game Commission*, 334 U.S. 410, 418-420, 68 S.Ct. 1138, 1142-1143, 92 L.Ed. 1478 (1948).

⁶ *Id.*

⁷ *Toll v. Moreno*, 458 U.S. 1, 17, 102 S.Ct. 2977, 2986, 73 L.Ed.2d 563 (1982).

⁸ *Day v. Sebelius*, 376 F. Supp.2d 1022 (D. Kan. 2005).

⁹ U.S. Const. amend. XIV, § 1.

¹⁰ 8 U.S.C. 1621 and 8 U.S.C. 1623

¹¹ *Day v. Sebelius*, 376 F. Supp.2d 1022, 1040 (D. Kan. 2005).

A lawsuit was filed in California in December 2005, challenging 2001 state legislation that provides students, who meet certain criteria, with an in-state tuition classification. A group of out-of-state students and parents filed the class-action lawsuit against California's public university and community college systems.

A proposal in the U.S. Congress may also affect states that provide in-state tuition without regard to immigration status. The Development, Relief, and Education for Alien Minors (DREAM) Act, was first introduced in 2003 and again introduced in 2004; however, Congress recessed without taking action on the Act. In November 2005, the DREAM Act was introduced as S. 2075, giving new life to the legislation.

The DREAM Act would enact two major changes in current law: eliminate the federal provision that discourages states from providing in-state tuition without regard to immigration status and permit some immigrant students who have grown up in the U.S. to apply for legal status.¹² If passed it would provide illegal immigrants in the U.S. the ability to sustain legal status if they graduated from high school, attended at least two years of college or spent two years in the military, and stayed out of trouble. Those students who live in the U.S. for at least five years would also be eligible for federal financial aid.¹³ The DREAM Act would permit qualified students to become temporary legal residents, putting them on a path to permanent legal status.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Colleges and Universities Committee adopted amendments to HB 795. The bill was reported favorably with a Committee Substitute (CS). The CS differs from the original bill in the following ways:

- Extends the First Generation Matching Grant Program to include community colleges.
- Provides for allocation of funds by the Office of Student Financial Aid instead of the Board of Governors due to the addition of community colleges.
- Requires a 50-50 split in allocated funds between the 28 community colleges and 11 state universities. Within each 50-percent allocation a proportionate allocation is reserved for each state university and community college on the basis of full-time equivalent enrollments.
- Provides for any unmatched funds as of December 1 to be reallocated to state universities and community colleges that have remaining unmatched funds.
- Removes duplicative Pell Grant eligibility requirement.
- Clarifies that any award from the program will be issued after other aid has been applied.
- Requires participating institutions to fulfill certain reporting requirements.

The CS also revises provisions relating to the determination of a student's residency status for tuition purposes by extending residency status to any student, other than a nonimmigrant alien within the meaning of federal law, who meets the following criteria:

- Has resided in Florida with a parent for at least 3 consecutive years immediately preceding the date the student received a high school diploma or its equivalent.
- Has attended a Florida high school for at least 3 consecutive years during such time.
- Has filed an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status or will file such application as soon as he or she is eligible to do so.

¹² National Immigration Law Center, *Immigrants' Rights Update: Immigrant Student Adjustment and Access to Higher Education*, Vol. 17, No. 5, September 4, 2003.

¹³ Matthew Hansen, *Tuition relief for illegal immigrants?*, Lincoln Journal Star, January 19, 2005.

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CHAMBER ACTION

The Colleges & Universities Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to student financial assistance; creating s. 1009.701, F.S.; creating the First Generation Matching Grant Program to provide financial aid to undergraduate students with financial need whose parents have not earned a baccalaureate degree; providing for appropriation, allocation, and distribution of funds; providing student eligibility requirements; providing the basis for the amount of awards; providing duties of institutions participating in the program; amending s. 1009.21, F.S.; providing an additional category within which students may be classified as residents for tuition purposes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1009.701, Florida Statutes, is created to read:

1009.701 First Generation Matching Grant Program.--

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24 (1) The First Generation Matching Grant Program is created
25 to enable each state university and community college to provide
26 donors with a matching grant incentive for contributions that
27 will create grant-based student financial aid for undergraduate
28 students who demonstrate financial need and whose parents, as
29 defined in s. 1009.21(1), have not earned a baccalaureate
30 degree.

31 (2) Funds appropriated by the Legislature for the program
32 shall be allocated by the Office of Student Financial Assistance
33 to match private contributions on a dollar-for-dollar basis.
34 Contributions made to a state university or community college
35 and pledged for the purposes of this section are eligible for
36 state matching funds appropriated for this program and are not
37 eligible for any other state matching grant program. Pledged
38 contributions are not eligible for matching prior to the actual
39 collection of the total funds. The Office of Student Financial
40 Assistance shall reserve 50 percent of the total appropriated
41 funds for state universities and the remaining 50 percent for
42 community colleges. Within each 50-percent portion, the Office
43 of Student Financial Assistance shall reserve a proportionate
44 allocation for each state university and community college on
45 the basis of full-time equivalent enrollments. Funds that remain
46 unmatched as of December 1 shall be reallocated to state
47 universities and community colleges that have remaining
48 unmatched private contributions for the program on the basis of
49 full-time equivalent enrollments.

50 (3) Payment of the state matching grant shall be
51 transmitted to the president of each participating institution

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52 or his or her representative in advance of the student
53 registration period.

54 (4) Each participating state university and community
55 college shall establish an application process, determine
56 student eligibility for initial and renewal awards in
57 conformance with subsection (5), identify the amount awarded to
58 each recipient, and notify recipients of the amount of their
59 awards.

60 (5) In order to be eligible to receive a grant pursuant to
61 this section, an applicant shall:

62 (a) Be a resident for tuition purposes pursuant to s.
63 1009.21.

64 (b) Be a first generation college student. For the
65 purposes of this section, a student is considered "first
66 generation" if neither of the student's parents, as defined in
67 s. 1009.21(1), earned a college degree at the baccalaureate
68 level or higher.

69 (c) Be accepted at a state university or community
70 college.

71 (d) Be enrolled for a minimum of 6 credit hours per term
72 as a degree-seeking undergraduate student.

73 (e) Have demonstrated financial need by completing the
74 Free Application for Federal Student Aid.

75 (6) The award amount shall be based on the student's need
76 assessment after any scholarship or grant aid, including, but
77 not limited to, a Pell Grant or a Florida Bright Futures
78 Scholarship Program award, has been applied. No award may exceed

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79 the institution's estimated annual cost of attendance for
80 comparable undergraduate students attending the institution.

81 (7) Each participating institution shall report to the
82 Office of Student Financial Assistance, by the date established
83 by the office, the eligible students to whom grant moneys are
84 disbursed each academic term. Institutions shall certify to the
85 Office of Student Financial Assistance the amount of funds
86 disbursed to each student and shall remit to the office any
87 undisbursed advances by June 1 of each year.

88 (8) No later than July 1 of each year, each participating
89 institution shall report to the Executive Office of the
90 Governor, the Speaker of the House of Representatives, and the
91 President of the Senate, each community college shall report to
92 the State Board of Education, and each state university shall
93 report to the Board of Governors regarding eligibility
94 requirements for recipients, the aggregate demographics of
95 recipients, retention and graduation rates of recipients, and a
96 delineation of funds awarded to recipients.

97 (9) This section shall be implemented only as specifically
98 funded.

99 Section 2. Paragraph (1) is added to subsection (10) of
100 section 1009.21, Florida Statutes, to read:

101 1009.21 Determination of resident status for tuition
102 purposes.--Students shall be classified as residents or
103 nonresidents for the purpose of assessing tuition in community
104 colleges and state universities.

105 (10) The following persons shall be classified as
106 residents for tuition purposes:

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107 (1) A student, other than a nonimmigrant alien within the
108 meaning of 8 U.S.C. s. 1001(a)(15), who meets the following
109 criteria:

110 1. Has resided in Florida with a parent for at least 3
111 consecutive years immediately preceding the date the student
112 received a high school diploma or its equivalent.

113 2. Has attended a Florida high school for at least 3
114 consecutive school years during such time.

115 3. Has filed an affidavit with the institution of higher
116 education stating that the student has filed an application to
117 legalize his or her immigration status or will file such
118 application as soon as he or she is eligible to do so.

119 Section 3. This act shall take effect July 1, 2006.

HB 801 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 801 CS

Florida Ready to Work Certification Program

SPONSOR(S): Patterson

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Community Colleges & Workforce Committee	7 Y, 0 N, w/CS	Thomas	Ashworth
2) Education Appropriations Committee		Hammock	Hamon <i>K.W.H.</i>
3) Education Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

The bill creates the Florida Ready to Work Certification Program which will enhance Florida students' workplace skills to better prepare them for successful entry-level employment in specific occupations.

Florida Ready to Work Certification Programs shall be composed of:

- A comprehensive identification of workplace skills for each occupation identified for inclusion in the program by the Agency for Workforce Innovation.
- A preinstructional assessment that delineates the student's mastery level on the specific workplace skills identified for that occupation.
- A targeted instructional program limited to those identified workplace skills in which the student is not proficient. Instruction may be web based and must meet specific needs of local employers.
- A certificate and portfolio awarded to students upon successful completion of the instruction.

Florida Ready to Work Certification Programs may be conducted at public high schools, community colleges, technical centers, one-stop career centers, vocational rehabilitation centers and Department of Juvenile Justice educational facilities.

The bill requires the Department of Education (DOE) to establish institutional readiness criteria for the implementation of the Florida Ready to Work Certification Program.

The bill provides rulemaking authority to the State Board of Education, in consultation with the Agency for Workforce Innovation, for the implementation of the Florida Ready to Work Certification Program.

The House Proposed General Appropriations Bill (House Bill 5001, Specific Appropriation 132A) provides \$15,000,000 for the program for the Department of Education. No funds have been appropriated for the Agency for Workforce Innovation.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility – The bill provides students graduating from high school the opportunity to be workforce ready.

Provide limited government – The bill provides rulemaking authority to the State Board of Education and the Agency for Workforce Innovation for the implementation of the Florida Ready to Work Certification Program.

Empower families – The bill provides the opportunity for students who complete the Florida Ready to Work Certification Program to be able to obtain and sustain a job and realize economic self-sufficiency.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

According to a new RAND report, *The 21st Century at Work*, rapid technological change and increased international competition place the spotlight on the skill and preparation of the workforce, particularly the ability to adapt to changing technologies and shifting product demand. The growing importance of knowledge-based work favors workers with the skills of abstract reasoning, problem solving, communication and collaboration. Knowledge workers will need high-level skills for managing, interpreting, validating, transforming, communicating and acting on information.¹

Career education (a term often interchangeably used for vocational education, workforce education, or technical education) is critically important to Florida's students and to Florida's economic development. A significant percentage of Florida's students currently leave high school without adequate preparation to enter a career or continue into a technical center, community college or university program. Of every ten 9th graders, three students drop out and three of the remaining seven do not pursue additional education; six students (60%) do not go to college. Only four out of the 10 (40%) attend college.² Reformed career education programs in the high school years would not only benefit the six students who do not attend college, but has the potential of benefiting all students.

Career Education Certification

Currently, section 1003.431, F.S., provides that a career education certification may be placed on a student's high school diploma. The certification is designed to indicate that a student is prepared for both postsecondary education without the need for remediation and that the student has marketable employment skills. The State Board of Education was given the authority to adopt rules for a standard format for the career education certification. Currently, the SBE has not adopted rules for the career education certification and no school districts offer this for high school diplomas.

Work Readiness Credential Models

National Work Readiness Credential Project

The U.S. Chamber's Center for Workforce Preparation (CWP) and the Equipped for the Future Work Readiness Credential are in the process of developing a new program which will provide an assessment-based certification that affirms that entry-level job seekers have communication,

¹ Education Commission of the States, January 2005. *State Strategies for Redesigning High Schools and Promoting High School to College Transitions*, p. 1.

² *Career and Professional Education: Preparing Florida's Students for the Knowledge Economy*, Council for Education Policy, Research and Improvement (CEPRI), September 2004

interpersonal, decision-making, and lifelong learning skills. This partnership is in response to business concerns about the difficulty in finding qualified applicants for entry-level work. National and state leaders in business, government, and labor have come together to build a national Work Readiness Credential (WRC) based on a business-defined standard of the critical skills needed by entry-level workers. Employers using the Work Readiness Credential will reduce recruitment cost, improve productivity, minimize turnover and lower on-the-job training costs by being able to confidently hire entry-level workers. The credential assessment and delivery system is currently being field tested in 6 partner states. Florida is one of those states. The program is expected to be available for broad use by chambers, businesses, one-stop centers, and education and training providers in June 2006.

WorkKeys

WorkKeys is a job skills assessment system measuring “real world” skills that employers believe are critical to job success. The abilities to learn, listen, communicate, work in teams and solve problems are important assets for any worker, regardless of career choice. WorkKeys assessments measures these abilities in three key areas:

- communication – (business writing, listening, reading for information, writing);
- problem solving – (applied mathematics, applied technology, locating information, observation); and
- interpersonal skills – (teamwork).

The WorkKeys job profiling component analyzes the skills needed for specific jobs and describes those needs to educators, students and job applicants. By comparing job profile information with an individual's scores on the WorkKeys tests, skill gaps can be identified and guide training decisions to improve the individual's WorkKeys scores. The certificates validate the WorkKeys skill levels an individual has achieved. Several states are developing WorkKeys readiness certificates to help individuals document their skills for potential employers.

Effect of Proposed Changes

HB 801 CS creates the Florida Ready to Work Certification Program which will enhance Florida students' workplace skills to better prepare them for successful entry-level employment in specific occupations.

Florida Ready to Work Certification Programs shall be composed of:

- A comprehensive identification of workplace skills for each occupation identified for inclusion in the program by the Agency for Workforce Innovation.
- A preinstructional assessment that delineates the student's mastery level on the specific workplace skills identified for that occupation.
- A targeted instructional program limited to those identified workplace skills in which the student is not proficient. Instruction may be web-based and must meet specific needs of local employers.
- A certificate and portfolio awarded to students upon successful completion of the instruction.

Florida Ready to Work Certification Programs may be conducted at public high schools, community colleges, technical centers, one-stop career centers, vocational rehabilitation centers and Department of Juvenile Justice educational facilities.

HB 801 CS requires the Department of Education (DOE) to establish institutional readiness criteria for the implementation of the Florida Ready to Work Certification Program.

HB 801 CS provides rulemaking authority to the State Board of Education, in consultation with the Agency for Workforce Innovation, for the implementation of the Florida Ready to Work Certification Program.

C. SECTION DIRECTORY:

Section 1: Creates s. 1004.99, F.S., The Florida Ready to Work Certification Program; providing students with workforce skills assessment, instruction related to an occupation, and certification based on demonstration of such skills; providing for institutional eligibility; providing program components; authorizing rulemaking.

Section 2: Providing an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See FISCAL COMMENTS

2. Expenditures: See FISCAL COMMENTS

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures: None

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

The House Proposed General Appropriations Bill (House Bill 5001, Specific Appropriation 132A) provides \$15,000,000 for the program for the Department of Education. No funds have been appropriated for the Agency for Workforce Innovation.

The implementation of this program would cause staff workload for the Department of Education and Agency for Workforce Innovation for assessments, curriculum, instruction, business outreach and profiling. The Department of Education has requested five (5) positions: one (1) supervisor, three (3) program specialists, and one (1) administrative support person.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other: None

B. RULE-MAKING AUTHORITY:

The State Board of Education, in consultation with the Agency for Workforce Innovation are given rulemaking authority for the implementation of the Florida Ready to Work Certification Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Community College and Workforce Committee adopted a strike-all amendment. The strike-all amendment:

- Removed all fiscal appropriations language.
- Clarified language creating the program, the purpose of the program, and the components of the program.
- Clarified agency roles for rulemaking authority.

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CHAMBER ACTION

The Community Colleges & Workforce Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Florida Ready to Work Certification Program; creating s. 1004.99, F.S.; creating the program to enhance student workplace skills; providing for implementation; providing program components; authorizing rulemaking; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1004.99, Florida Statutes, is created to read:

1004.99 Florida Ready to Work Certification Program.--

(1) There is created the Florida Ready to Work Certification Program to enhance the workplace skills of Florida's students to better prepare them for successful entry-level employment in specific occupations.

(2) The Florida Ready to Work Certification Program may be conducted in public high schools, community colleges, technical

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24 centers, one-stop career centers, vocational rehabilitation
25 centers, and Department of Juvenile Justice educational
26 facilities. The Department of Education shall establish
27 institutional readiness criteria for program implementation.

28 (3) The Florida Ready to Work Certification Program shall
29 be composed of:

30 (a) A comprehensive identification of workplace skills for
31 each occupation identified for inclusion in the program by the
32 Agency for Workforce Innovation.

33 (b) A preinstructional assessment that delineates the
34 student's mastery level on the specific workplace skills
35 identified for that occupation.

36 (c) A targeted instructional program limited to those
37 identified workplace skills in which the student is not
38 proficient as measured by the preinstructional assessment.
39 Instruction must utilize a web-based program and be customized
40 to meet identified specific needs of local employers.

41 (d) A certificate and portfolio awarded to students upon
42 successful completion of the instruction. Each portfolio must
43 delineate the skills demonstrated by the student as evidence of
44 the student's preparation for employment.

45 (4) The State Board of Education, in consultation with the
46 Agency for Workforce Innovation, may adopt rules pursuant to ss.
47 120.536(1) and 120.54 to implement the provisions of this
48 section.

49 Section 2. This act shall take effect upon becoming a law.

HB 873 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 873 CS
SPONSOR(S): Brandenburg
TIED BILLS:

Building Designations

IDEN./SIM. BILLS: SB 1636

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Colleges & Universities Committee</u>	<u>10 Y, 0 N, w/CS</u>	<u>Davis</u>	<u>Tilton</u>
2) <u>Education Appropriations Committee</u>	<u></u>	<u>Hamon</u> <i>K.W.H.</i>	<u>Hamon</u> <i>K.W.H.</i>
3) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Current law does not permit a state building, road, bridge, park, recreation complex, or similar facility to be named after a living person unless the name designation is approved by law. Pursuant to this requirement, if a university wishes to name a particular building or facility after a living person, the designation must be approved by the Legislature.

The bill designates the new alumni center at Florida Atlantic University as the "Marleen and Harold Forkas Alumni Center" and the Florida Agricultural and Mechanical University-Florida State University College of Engineering building as the "Herbert F. Morgan Building." Florida Atlantic University, Florida Agricultural and Mechanical University, and Florida State University are directed to erect suitable markers to reflect these designations.

The bill provides an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Section 267.062, F.S., provides that no state building, road, bridge, park, recreational complex, or similar facility can be named after a living person unless approved by law. Therefore, if a university wishes to name a particular building or facility after a living person, the designation must be approved by the Legislature.

A section-by-section analysis of the bill follows. The biographical information was provided by the sponsors of the proposed designations.

Section 1: The bill designates the new alumni center at Florida Atlantic University as the "Marleen and Harold Forkas Alumni Center" and directs Florida Atlantic University to erect suitable markers.

Marleen Forkas was the first woman to graduate from the Fashion Institute of Technology's Management Engineering Division. She went on to build a 40-year career as a designer and manufacturer for leading fashion houses.

Harold Forkas began his career working in the office supply business before moving on to sales and management for the Coca-Cola Company. He later had the opportunity to explore entrepreneurship as a Midas Muffler franchisee; by 1988, he owned eight Midas Muffler dealerships.

Marleen and Harold Forkas have a strong philanthropic background. They are involved in several charitable organizations including the Boca Raton Community Hospital Foundation and the Boca Raton Museum of Art. Their involvement with Florida Atlantic University began in 1997 when the couple began attending performances at Florida Atlantic University's University Center. They became members of the University's Inner Circle of Football Founders, and were behind the university's efforts to establish a football team.

More recently, the couple has turned their philanthropic interests to the efforts of the Florida Atlantic University National Alumni Association, donating \$1 million for the construction of a permanent facility to house the association.

Section 2: The bill designates the Florida Agricultural and Mechanical University-Florida State University College of Engineering Building as the "Herbert F. Morgan Building" and directs Florida Agricultural and Mechanical University and Florida State University to erect suitable markers.

Herbert F. Morgan earned a business degree from Florida State University in 1966. While there, he received the James D. Westcott Distinguished Service Medal. In 2003, Mr. Morgan received an honorary doctoral degree from Florida State University. Florida State University and Tallahassee Community College have established a joint scholarship in Mr. Morgan's name.

Mr. Morgan was elected to the Florida House of Representatives in 1974 and served until 1986. As a state representative, he served for eight years as Chairman of the Appropriation Committee and also served as Chair of the Rules and Calendar Committee. Mr. Morgan was a key player in the revision of Florida's Budgeting system. He was dedicated to improving Florida's educational system and improving care for disabled and mentally ill Floridians. Mr. Morgan is a two-time recipient of the Allen Morris Award for the most effective member of the House of Representatives.

Mr. Morgan was instrumental in the creation and funding of the Florida Agricultural and Mechanical University-Florida State University Engineering Program.

Section 3: This bill will take effect upon becoming law.

C. SECTION DIRECTORY:

This bill does not create, repeal, or amend any statutory sections. Please refer to EFFECT OF PROPOSED CHANGES for a section-by-section analysis of the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

Please see FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

There will be an insignificant cost associated with the universities erecting suitable markers for the name designation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

This bill does not appear to raise constitutional issues.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the colleges and Universities Committee adopted an amendment to HB 873. The bill was reported favorable with a Committee Substitute (CS). The CS adds the designation of Florida Agricultural and Mechanical University-Florida State University College of Engineering building as the "Herbert F. Morgan Building."

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CS

CHAMBER ACTION

The Colleges & Universities Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to building designations; designating the new alumni center at Florida Atlantic University as the Marleen and Harold Forkas Alumni Center; designating the Florida Agricultural and Mechanical University-Florida State University College of Engineering Building as the Herbert F. Morgan Building; directing the erection of suitable markers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Marleen and Harold Forkas Alumni Center designated; Florida Atlantic University to erect suitable markers.--

(1) The new alumni center at Florida Atlantic University is designated as the "Marleen and Harold Forkas Alumni Center."

(2) Florida Atlantic University is directed to erect suitable markers designating the Marleen and Harold Forkas Alumni Center as described in subsection (1).

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24 Section 2. Herbert F. Morgan Building designated; Florida
25 Agricultural and Mechanical University and Florida State
26 University to erect suitable markers.--

27 (1) The Florida Agricultural and Mechanical University-
28 Florida State University College of Engineering Building in
29 Tallahassee is designated as the "Herbert F. Morgan Building."

30 (2) Florida Agricultural and Mechanical University and
31 Florida State University are directed to erect suitable markers
32 designating the Herbert F. Morgan Building as described in
33 subsection (1).

34 Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 899 Regional Consortium Service Organizations
SPONSOR(S): Richardson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1710

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	9 Y, 0 N	Hunker	Mizereck
2) Education Appropriations Committee		Eggers <i>ME</i>	Hamon <i>K.W.H.</i>
3) Education Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

House Bill 899 amends s. 1001.451, F.S., regarding regional consortium service organizations (RCSOs).

The bill requires that the boards of directors of RCSOs determine which services will be purchased with the funds received from the Department of Education (DOE).

The bill authorizes the boards of directors of RCSOs to replace individual school district bid arrangements with RCSO purchasing and bidding programs.

The bill authorizes boards of directors of RCSOs to establish educational foundations governed by educational foundation boards of directors. RCSOs may permit educational foundations to use the property, facilities and personnel services of an RCSO to raise funds for the district members. The bill requires financial audits for certain educational foundations.

The bill has an indeterminate fiscal impact. See FISCAL ANALYSIS.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill permits regional consortium services organizations to provide bidding, purchasing and fundraising operations to multiple school districts, thus reducing duplicative effort which would occur if each district had to provide these services for themselves.

B. EFFECT OF PROPOSED CHANGES:

Currently, section 1001.451, F.S., authorizes the creation of regional consortium service organizations (RCSOs). RCSOs permit smaller school districts,¹ developmental research (laboratory) schools,² and the Florida School for the Deaf and the Blind to pool their resources to provide common programs and services such as teacher training, staff development, exceptional student education, federal grant procurement and coordination, data processing, health insurance, risk management insurance, purchasing, and planning and accountability.

There are currently three regional consortium service organizations in operation in Florida:

- (1) The North Florida Education Consortium (NEFEC): Comprising Baker, Bradford, Columbia, Dixie, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Nassau, Putnam, Suwannee, Union, P.K. Youngs DRS, and the Florida School For the Deaf and the Blind³
- (2) Panhandle Area Education Consortium (PAEC): Comprising Calhoun, FSU Schools, Inc., Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Liberty, Madison, Taylor, Wakulla, Walton, and Washington.⁴
- (3) Heartland Educational Consortium (HEC): Comprising De Soto, Glades, Hardee, Hendry, Highlands, and Okeechobee.⁵

Currently, the DOE provides these organizations with incentive grants of \$50,000 per school district to be used for the delivery of services within those districts. The bill authorizes the boards of directors of the RCSOs to determine which services the funds will be used for.

The bill grants authority to the boards of directors of the RCSOs to establish purchasing and bidding programs, including construction and construction management arrangements, through their school district fiscal agent. An individual district school board could choose to use contracts in place through RCSO bids by submitting a letter of intent to participate and by reflecting the intent to participate in official district school board minutes.

The bill also clarifies that an RCSO board of directors may elect to establish an educational foundation independent of the organization's school district of record. An educational foundation must be governed by an educational foundation board of directors, must be a Florida not-for-profit corporation under chapter 617, F.S., and must be approved by the Department of State. This bill authorizes RCSOs to permit approved educational foundations to use RCSO property, facilities, and personnel services to raise funds for school district members of the RCSO. The bill also provides that each approved educational foundation with more than \$100,000 in expenditures or expenses must provide for an annual financial audit of its accounts and records by an independent certified public accountant.

¹ Smaller school districts are those that have 20,000 or fewer unweighted full-time equivalent students

² See s. 1002.32, Fla. Stat.

³ The North East Florida Educational Consortium, <http://www.nefec.org> (last visited Mar. 16, 2006).

⁴ Panhandle Area Educational Consortium, <http://www.paec.org> (last visited Mar. 16, 2006).

⁵ Heartland Educational Consortium, <http://www.flalearningalliance.org> (last visited Mar. 16, 2006).

The audit report must be submitted to the boards of directors of both the educational foundation and the RCSO within 9 months after the end of the fiscal year.

The bill provides that the act will take effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 1001.451, F.S.; requiring the board of directors of a regional consortium service organization to determine use of funds; authorizing establishment of purchasing and bidding programs; authorizing establishment of an educational foundation board of directors and providing for use of property, facilities, and personnel services; requiring audits.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires an RCSO educational foundation with more than \$100,000 in expenditures or expenses to hire an independent certified public accountant to prepare an audit report. Although the fiscal impact is indeterminate, it is expected to be small.

D. FISCAL COMMENTS:

The bill may reduce administrative costs of school districts operating their own bidding and purchasing processes and fundraising, if the school district obtains these services from a RCSO. To the extent a RCSO expands bidding and purchasing services for school districts, additional costs may be incurred. Although potential school district savings and RCSO increased costs are indeterminate, they are expected to be small.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to spend funds or take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled
2 An act relating to regional consortium service
3 organizations; amending s. 1001.451, F.S.; requiring the
4 determination of services and use of funds to be
5 established by the board of directors of a regional
6 consortium service organization; authorizing establishment
7 of purchasing and bidding programs in lieu of individual
8 school district bid arrangements; authorizing
9 establishment of an educational foundation governed by an
10 educational foundation board of directors; providing for
11 use of property, facilities, and personnel services by an
12 educational foundation; requiring audits; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Section 1001.451, Florida Statutes, is amended
18 to read:

19 1001.451 Regional consortium service organizations.--In
20 order to provide a full range of programs to larger numbers of
21 students, minimize duplication of services, and encourage the
22 development of new programs and services:

23 (1) School districts with 20,000 or fewer unweighted full-
24 time equivalent students, developmental research (laboratory)
25 schools established pursuant to s. 1002.32, and the Florida
26 School for the Deaf and the Blind may enter into cooperative
27 agreements to form a regional consortium service organization.
28 Each regional consortium service organization shall provide, at

29 a minimum, three of the following services: exceptional student
30 education; teacher education centers; environmental education;
31 federal grant procurement and coordination; data processing;
32 health insurance; risk management insurance; staff development;
33 purchasing; or planning and accountability.

34 (2)(a) Each regional consortium service organization that
35 consists of four or more school districts is eligible to
36 receive, through the Department of Education, an incentive grant
37 of \$50,000 per school district and eligible member to be used
38 for the delivery of services within the participating school
39 districts. The determination of services and use of such funds
40 shall be established by the board of directors of the regional
41 consortium service organization.

42 (b) Application for incentive grants shall be made to the
43 Commissioner of Education by July 30 of each year for
44 distribution to qualifying regional consortium service
45 organizations by January 1 of the fiscal year.

46 (3) In order to economically provide programs and services
47 to participating school districts and members, a regional
48 consortium service organization may establish purchasing and
49 bidding programs, including construction and construction
50 management arrangements, in lieu of individual school district
51 bid arrangements. Participation in regional consortium service
52 organization bids shall be accomplished by action of an
53 individual district school board through a letter of intent to
54 participate and shall be reflected in official district school
55 board minutes.

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56 (4) A regional consortium service organization board of
57 directors may elect to establish an educational foundation
58 independent of the regional consortium service organization's
59 school district of record to be governed by an educational
60 foundation board of directors. The educational foundation must
61 be a Florida not-for-profit corporation incorporated under the
62 provisions of chapter 617 and approved by the Department of
63 State. A regional consortium service organization board of
64 directors may permit the use of property, facilities, and
65 personnel services of the regional consortium service
66 organization by an approved educational foundation. An approved
67 educational foundation with more than \$100,000 in expenditures
68 or expenses must provide for an annual financial audit of its
69 accounts and records to be conducted by an independent certified
70 public accountant. The annual audit report shall be submitted
71 within 9 months after the end of the fiscal year to the
72 educational foundation board of directors and the regional
73 consortium service organization board of directors.

74 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 987
SPONSOR(S): Gottlieb
TIED BILLS:

Tax on Sales, Use, and Other Transactions

IDEN./SIM. BILLS: SB 1590

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Education Appropriations Committee		Eggers <i>ME</i>	Hamon <i>K.W.H.</i>
2) Fiscal Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

Effective January 1, 2007, sales tax dealers entitled to a collection allowance pursuant to s. 212.12, F.S., may elect to forego the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund. The election must be made with the timely filing of a return and cannot be rescinded once made. If a dealer making the election files a delinquent return, underpays the tax, or files an incomplete return, the amount transferred into the Educational Enhancement Trust Fund shall be the collection allowance remaining after resolution of liability for all tax, interest, and penalty due.

The maximum amount of collection allowance is \$30 per month for each sales dealer. To the degree that sales tax dealers donate their collection allowance to the Educational Enhancement Trust Fund, such trust fund will realize an increase in revenues to the benefit of public education. The increase to the trust fund can not be determined.

The bill appropriates \$36,465 from the General Revenue Fund to the Department of Revenue for the purpose of administering the program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility—The bill authorizes sales tax dealers entitled to a collection allowance to forgo the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 212, F.S., levies a 6 percent sales and use tax on most sales of tangible personal property and a limited number of services. Local governments are authorized to levy numerous types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. Under the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions "subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions" by chapter 212, F.S. and on communications services by chapter 202, F.S. Section 212.0305, F.S., authorizes the levy of the local option Convention Development Tax at the rate of 3 percent in Miami-Dade County, and at the rate of 2 percent in Duval County and Volusia County.

Section 212.12, F.S., provides sales and use tax dealers a collection allowance of 2.5 percent of the amount of the tax due for the purpose of compensating dealers for the keeping of prescribed records, filing timely returns, and proper accounting and remitting of taxes. No collection allowance is allowed on tax collected and remitted in excess of \$1,200 per month, resulting in a maximum collection allowance of \$30 per month for the majority of dealers. The dealer's collection allowance does not apply to the rental car surcharge¹, the waste tire fee², the lead-acid battery fee³, or the motor vehicle warranty fee⁴.

Article X, Sec. 15, of the State Constitution, provides for a state operated lottery. Chapter 24, F.S., provides the statutory authority for the state lottery. Section 24.121(2), F.S., provides that variable percentages of the gross revenue, as determined by the Department of the Lottery, from the sale of on-line and instant lottery tickets and other earned revenue shall be deposited into the Educational Enhancement Trust Fund to be administered by the Department of Education. Funds from the Educational Enhancement Trust Fund shall be used to the benefit of public education as provided for in s. 24.121, F.S.

Effect of Proposed Changes

The bill amends s. 212.12(1), F.S., creating paragraph (c), providing that sales tax dealers entitled to a collection allowance pursuant to s. 212.12, F.S., may elect to forego the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund. The election must be made with the timely filing of a return and cannot be rescinded once made. If a dealer making the election files a delinquent return, underpays the tax, or files an incomplete return, the amount deposited into the Educational Enhancement Trust Fund shall be the collection allowance remaining after resolution of liability for all tax, interest, and penalty due. The Department of Education shall distribute the remaining amount from the trust fund to the school districts that have adopted resolutions stating that those funds will be used to ensure that up-to-date technology is purchased for the classrooms in the district and that

¹ Section 212.0606, F.S.

² Section 403.718, F.S.

³ Section 403.7185, F.S.

⁴ Section 681.117, F.S.

teachers are trained in the use of that technology. Revenues collected in districts that do not adopt such a resolution shall be equally distributed to districts that have adopted such resolutions.

The bill provides that the election to forego the collection allowance applies to all taxes, surtaxes, and any local option taxes administered under chapter 212, F.S., and remitted directly to the Department of Revenue. This election does not apply to any locally imposed and self-administered convention development tax⁵, tourist development tax⁶, or tourist impact tax⁷ administered under chapter 212, F.S.

The bill provides that notwithstanding the provisions of chapter 120, F. S., to the contrary, the Department of Revenue may adopt rules to carry out the amendments made by this act to s. 212.12, F.S.

The bill appropriates the sum of \$36,465 from the General Revenue Fund to the Department of Revenue for the purpose of administering the amendments to s. 212.12, F.S., made by this act. The bill authorizes the Department of Revenue to retain all of the dealer collection allowance revenues directed to be transferred into the Educational Enhancement Trust Fund until the \$36,465 General Revenue appropriation is recovered.

The bill requires that revenues from the dealer collection allowances shall be transferred quarterly from the General Revenue Fund to the Educational Enhancement Trust Fund and that the Department of Revenue shall provide to the Department of Education quarterly information about such revenues by county to which the collection allowance was attributed.

The bill provides that this act shall take effect January 1, 2007.

C. SECTION DIRECTORY:

Section 1. Amends s. 212.12(1), F.S., creating paragraph (c), providing that sales tax dealers entitled to a collection allowance pursuant to s. 212.12, F.S., may elect to forego the collection allowance and direct that it be deposited into the Educational Enhancement Trust Fund.

Section 2. Provides that notwithstanding the provisions of chapter 120, F. S., to the contrary, the Department of Revenue may adopt rules to carry out the amendments made by this act to s. 212.12, F.S.

Section 3. Appropriates the sum of \$36,465 from the General Revenue Fund to the Department of Revenue for the purpose of administering the amendments to s. 212.12, F.S., made by this act.

Section 4. Requires that revenues from the dealer collection allowances shall be transferred quarterly from the General Revenue Fund to the Educational Enhancement Trust Fund.

Section 5. Provides that this act shall take effect January 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁵ Section 212.0305, F.S.

⁶ Section 125.0104, F.S.

⁷ Section 125.0108, F.S.

Sales and use tax dealers may elect to donate their collection allowance to the Educational Enhancement Trust Fund. By doing this, such dealers will forgo a maximum dealer collection allowance of \$30 a month, which is deducted from the total of all taxes collected and remitted on Forms DR-15 and DR-15EZ, Sales and Use Tax Returns.

To the degree that sales tax dealers donate their collection allowance to the Educational Enhancement Trust Fund, such trust fund will realize an increase in revenues to the benefit of public education. The increase to the trust fund can not be determined.

2. Expenditures:

In order to administer the bill properly, the Department of Revenue (DOR) would be required to modify its sales and use tax returns forms (DR-15 and DR-15EZ in both hardcopy and electronic formats) to include a check box option directing the DOR to deposit the collection allowance into the Educational Enhancement Trust Fund. This will require computer programming of SAP to identify the amounts to be transferred to the trust fund and a Tax Information Publication (TIP) would need to be sent to all sales and use tax dealers to allow them sufficient time to make internal systems changes. The DOR estimates the cost of implementing this bill to be \$112,920.

The bill appropriates \$36,465 to the DOR to administer the program. The DOR estimates program implementation costs at \$112,920, a difference of \$76,455, which would have to be absorbed by DOR within existing resources. The bill specifies that the DOR shall retain all of the dealer collection allowances deposited in the Educational Enhancement Trust Fund until the \$36,465 is recovered. If collection allowances for the program are equal to or greater than \$36,465, there will be no fiscal impact to state funds, provided the DOR can absorb the \$76,455 in unrecovered costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "FISCAL IMPACT ON STATE GOVERNMENT."

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue is granted rule making authority to carry out the amendment to section 212.12, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled

An act relating to the tax on sales, use, and other transactions; amending s. 212.12, F.S.; authorizing a dealer to elect to forego the collection allowance and direct that collection allowance revenues be transferred to the Educational Enhancement Trust Fund for distribution to school districts as specified; providing exceptions; providing for rulemaking by the Department of Revenue; providing an appropriation; providing for costs recovery; requiring the Department of Revenue to report collection information to the Department of Education; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) is added to subsection (1) of section 212.12, Florida Statutes, to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.--

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the

29 purpose of compensating remitters of any taxes or fees reported
30 on the same documents utilized for the sales and use tax, as
31 compensation for the keeping of prescribed records, filing
32 timely tax returns, and the proper accounting and remitting of
33 taxes by them, such seller, person, lessor, dealer, owner, and
34 remitter (except dealers who make mail order sales) shall be
35 allowed 2.5 percent of the amount of the tax due and accounted
36 for and remitted to the department, in the form of a deduction
37 in submitting his or her report and paying the amount due by him
38 or her; the department shall allow such deduction of 2.5 percent
39 of the amount of the tax to the person paying the same for
40 remitting the tax and making of tax returns in the manner herein
41 provided, for paying the amount due to be paid by him or her,
42 and as further compensation to dealers in tangible personal
43 property for the keeping of prescribed records and for
44 collection of taxes and remitting the same. However, if the
45 amount of the tax due and remitted to the department for the
46 reporting period exceeds \$1,200, no allowance shall be allowed
47 for all amounts in excess of \$1,200. The executive director of
48 the department is authorized to negotiate a collection
49 allowance, pursuant to rules promulgated by the department, with
50 a dealer who makes mail order sales. The rules of the department
51 shall provide guidelines for establishing the collection
52 allowance based upon the dealer's estimated costs of collecting
53 the tax, the volume and value of the dealer's mail order sales
54 to purchasers in this state, and the administrative and legal
55 costs and likelihood of achieving collection of the tax absent
56 the cooperation of the dealer. However, in no event shall the

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collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(c)1. A dealer entitled to the collection allowance provided in this section may elect to forego the collection allowance and direct the department to transfer the amount of the collection allowance into the Educational Enhancement Trust Fund. Such an election must be made with the timely filing of a return and may not be rescinded once made. If a dealer who makes such an election files a delinquent return, underpays the tax, or files an incomplete return, the amount transferred into the Educational Enhancement Trust Fund shall be the amount of the collection allowance remaining after resolution of liability for all of the tax, interest, and penalty due on that return or underpayment of tax. The Department of Education shall distribute the remaining amount from the trust fund to the school districts that have adopted a resolution stating that those funds will be used to ensure that up-to-date technology is purchased for the classrooms in the district and that teachers are trained in the use of that technology. Revenues collected in districts that do not adopt such a resolution shall be equally distributed to districts that have adopted such resolutions.

2. This paragraph applies to all taxes, surtaxes, and any local option taxes administered under this chapter and remitted directly to the department. This paragraph does not apply to any locally imposed and self-administered convention development tax, tourist development tax, or tourist impact tax administered under this chapter.

84 Section 2. Notwithstanding the provisions of chapter 120,
85 Florida Statutes, the Department of Revenue may adopt rules to
86 carry out the amendment made by this act to s. 212.12, Florida
87 Statutes.

88 Section 3. The sum of \$36,465 is appropriated from the
89 General Revenue Fund to the Department of Revenue for the
90 purpose of administering the amendment to s. 212.12, Florida
91 Statutes, made by this act. The Department of Revenue shall
92 retain all of the revenues from dealer collection allowances
93 which are deposited into the Educational Enhancement Trust Fund
94 until the \$36,465 appropriated from the General Revenue Fund has
95 been recovered.

96 Section 4. Revenues from the dealer collection allowances
97 shall be transferred quarterly to the Educational Enhancement
98 Trust Fund. The Department of Revenue shall provide to the
99 Department of Education quarterly information about such
100 revenues by county to which the collection allowance was
101 attributed.

102 Section 5. This act shall take effect January 1, 2007.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1085 Hillsborough County School District
SPONSOR(S): Traviesa and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N	Nelson	Hamby
2) Education Appropriations Committee		Eggers <i>ME</i>	Hamon <i>K.W.H.</i>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1085 repeals an obsolete special law authorizing a 1998 referendum which provided for changing the membership of the Hillsborough County School Board to consist of seven members, with five members elected from single-member residence areas and two members elected from the county at large. Previously, the first five members were elected by a county-wide vote. The special law also contained transition language that phased in the new single member districts.

This bill provides that consistent with this referendum, and with the consent of the United States Department of Justice, Civil Rights Division, the governing body of the District School Board of Hillsborough County shall consist of seven members. The single-member residence areas are to be reapportioned by the district school board by resolution, in consultation with the county supervisor of elections, in the odd-numbered year immediately following each decennial census, and applied to the election held the following year. The bill also states that the election of district school board members shall be conducted in accordance with general law.

According to the Economic Impact Statement, this bill will have no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Constitutional Provision/School Districts

Section 4(a), Art. IX of the State Constitution, **School districts; school boards.**—provides:

Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors for appropriately staggered terms of four years, as provided by law.

Statutory Provisions/School Districts

Section 1001.36, F.S., **District school board member residence areas.**— provides:

(1) For the purpose of electing district school board members, each district shall be divided into at least five district school board member residence areas, which shall be numbered one to five, inclusive, and which shall, as nearly as practicable, be equal in population.

(a) For those school districts, which have seven district school board members, the district may be divided into five district school board member residence areas, with two district school board members elected at large, or the district may be divided into seven district school board member residence areas. In the latter case, the residence areas shall be numbered one to seven inclusive and shall be equal in population as nearly as practicable.

(b) For those school districts which have seven district school board members, the number of district school board member residence areas shall be determined by resolution passed by a majority vote of the district school board.

(2) Any district school board may make any change that it deems necessary in the boundaries of any district school board member residence area at any meeting of the district school board, provided that such changes shall be made only in odd-numbered years and that no change that would affect the residence qualifications of any incumbent member shall disqualify such incumbent member during the term for which he or she is elected.

(3) Such changes in boundaries shall be shown by resolutions spread upon the minutes of the district school board, shall be recorded in the office of the clerk of the circuit court, and shall be published at least once in a newspaper published in the district within 30 days after the adoption of the resolution, or, if there be no newspaper published in the district, shall be posted at the county courthouse door for 4 weeks thereafter. A certified copy of this resolution shall be transmitted to the Department of State.

Section 1001.361, F.S., **Election of board by districtwide vote.**—provides:

Notwithstanding any provision of local law or any county charter, the election of members of the district school board shall be by vote of the qualified electors of the entire district in a nonpartisan election as

provided in chapter 105. Each candidate for district school board member shall, at the time she or he qualifies, be a resident of the district school board member residence area from which the candidate seeks election. Each candidate who qualifies to have her or his name placed on the ballot shall be listed according to the district school board member residence area in which she or he resides. Each qualified elector of the district shall be entitled to vote for one candidate from each district school board member residence area. The candidate from each district school board member residence area who receives the highest number of votes in the general election shall be elected to the district school board.

Effect of Proposed Changes

In 1998, the Legislature passed a special act (ch. 98-465, L.O.F.) authorizing a referendum which provided for changing the membership of the Hillsborough County School Board to consist of seven members, with five members elected from single-member residence areas and two members elected from the county at large. Previously, the first five members were elected by a county-wide vote. The special act also contained transition language that phased in the new single member districts.

HB 1085 repeals this obsolete special law, and provides that consistent with the referendum held in Hillsborough County on November 3, 1998, and with the consent of the United States Department of Justice, Civil Rights Division,¹ dated January 24, 2000, the governing body of the District School Board of Hillsborough County shall consist of seven members, five of whom are elected from single-member residence areas (designated as Districts 1, 2, 3, 4 and 5) and two of whom are elected from the district at large. The single-member residence areas are to be reapportioned by the district school board by resolution, in consultation with the county supervisor of elections, in the odd-numbered year immediately following each decennial census in accordance with s.1001.36(2), F.S., and applied to the election held the following year. The bill also states that the election of members of the district school board shall be conducted in accordance with general law.

The bill takes effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1: Provides for membership of district school board, and reapportionment.

Section 2: Provides for election of district school board members in accordance with general law.

Section 3: Repeals ch. 98-465, L.O.F.

Section 4: Provides for effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN? January 11, 2006.

WHERE? *The Tampa Tribune*, a daily newspaper published in Hillsborough County.

B. REFERENDUM(S) REQUIRED? Yes ☐ No ☒

¹ Pursuant to the Voting Rights Act of 1965, Hillsborough County is required to obtain a preclearance determination from the United States Department of Justice that the election changes do not have the purpose and/or effect of denying the right to vote on account of race, color or language minority group.

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached ☒ No ☐

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached ☒ No ☐

According to the Economic Impact Statement, this bill will have no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

CONSTITUTIONAL PROHIBITED SUBJECTS/SCHOOL BOARD MEMBERS

Section 11, Art. III of the State Constitution lists a number of subjects which may not be addressed in a special act or general bill of local application. This list includes prohibitions on such bills which involve the:

election, jurisdiction or duties of officers, except officers of municipalities, chartered counties, special districts or local governmental agencies. See, s. 11(1), Art. III of the State Constitution.

In Kane v. Robbins, 556 So.2d 1381 (Fla. 1989), the Florida Supreme Court ruled that this prohibition included local bills or general bills of local application pertaining to the election of school board members, and held invalid a special act providing for school board members in Martin County to be elected on a nonpartisan basis.

However, in School Board of Palm Beach County v. Winchester, 565 So.2d 1350 (Fla. 1990), the Court ruled that s. 11(a) 1, Art. III, of the State Constitution did not apply to charter counties. The Court upheld a special act providing for the nonpartisan election of Palm Beach County School Board members, even though the act was passed several years before Palm Beach County became a charter county.

Hillsborough County is a charter county.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

HB 1085

2006

A bill to be entitled

An act relating to the Hillsborough County School District; providing for a seven-member district school board, with five members elected from single-member residence areas and two members elected from the district at large; providing for reapportionment; providing that elections shall be held in accordance with general law; repealing chapter 98-465, Laws of Florida, relating to the calling of a referendum to authorize such a district school board, to conform; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) Consistent with the referendum held in Hillsborough County on November 3, 1998, and with the consent of the United States Department of Justice, Civil Rights Division, dated January 24, 2000, the governing body of the District School Board of Hillsborough County shall consist of seven members, five of whom shall be elected from single-member residence areas and two of whom shall be elected from the district at large, as provided in this act.

(2) Two seats shall be filled from the district at large, and five seats shall be filled from single-member residence areas that are designated District 1, District 2, District 3, District 4, and District 5, respectively. The single-member residence areas shall be reapportioned by the district school board by resolution, in consultation with the county supervisor of elections, in the odd-numbered year immediately following

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29 each decennial census in accordance with section 1001.36(2),
 30 Florida Statutes, and applied to the election held the following
 31 year.

32 Section 2. The election of members of the district school
 33 board shall be conducted in accordance with general law.

34 Section 3. Chapter 98-465, Laws of Florida, is repealed.

35 Section 4. This act shall take effect upon becoming a law.

HB 1171

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1171
SPONSOR(S): Rivera and others
TIED BILLS:

Travel to Terrorist States

IDEN./SIM. BILLS: SB 2434

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Community Colleges & Workforce Committee</u>	<u>7 Y, 0 N</u>	<u>Thomas</u>	<u>Ashworth</u>
2) <u>Education Appropriations Committee</u>	<u></u>	<u>Hamon</u> <i>K.W.H.</i>	<u>Hamon</u> <i>K.W.H.</i>
3) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill requires that no funds in the Community College Program Fund, funds made available to community colleges outside the Community College Program Fund or state or non-state funds made available to state universities may be used to implement, organize, direct, coordinate, administer, or to support the implementation, organization, direction, coordination, or administration of activities related to or involving travel to a terrorist state.

The bill defines "terrorist state" as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism. Currently, the State Department designates six countries under these authorities: Cuba, Iran, Libya, North Korea, Sudan and Syria. Cuba is the only designated country in the Western Hemisphere.

The bill prohibits travel expenses of public officers or employees for implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state.

The bill has no fiscal impact. See FISCAL COMMENTS for historical use of funds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Maintain public security – The bill prohibits the use of community college or university funds for public officer or employee travel to terrorist states.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Community College Program Fund

Section 1011.81, F.S., establishes the Community College Program Fund to provide funding for the basic operations of Florida's 28 community colleges.

State University Funding

Section 1011.90, F.S., establishes the primary funding for the basic operations for Florida's 11 state universities.

Per Diem and Travel Expenses

Section 112.061, F.S., governs the per diem and travel expenses of agencies' public officers, employees, and authorized persons.

"Agencies" are defined as any office, department, agency, division, subdivision, political subdivision, board, bureau, commission, authority, district, public body, body politic, county, city, town, village, municipality, or other separate unit of government created by law.¹ A variety of conditions are placed on the travel that may be paid and what amounts may be paid.

"Officer or public officer" is defined as an individual who in the performance of his or her official duties is vested by law with sovereign powers of government and who is either elected by the people, or commissioned by the Governor and has jurisdiction extending throughout the state, or any person lawfully serving instead of either of the foregoing two classes of individuals as initial designee or successor.²

"Employee or public employee" is defined as an individual, whether commissioned or not, other than an officer or authorized person, who is filling a regular or full-time authorized position and is responsible to an agency head, who is called upon by an agency to contribute time and services as a consultant or adviser, who is a candidate for an executive or professional position.³

"Authorized person" is defined as a person other than a public officer or employee, whether elected or commissioned or not, who is authorized by an agency head to incur travel expenses in the performance of official duties.⁴

Terrorist States

The United States Department of State maintains a list of countries determined to have repeatedly provided support for acts of international terrorism. The countries are designated "terrorist states" under the requirements of three federal laws: section 6(j) of the Export Administration Act; section 40 of

¹ Section 112.061(2)(a).

² Section 112.061(2)(c).

³ Section 112.061(2)(d).

⁴ Section 112.061(2)(e).

the Arms Export Control Act; and section 620A of the Foreign Assistance Act. Sanctions resulting from designation under these acts include:

- A ban on arms-related exports and sales.
- Controls over exports of dual-use items, requiring a 30-day Congressional notification for goods or services that could significantly enhance the terrorist-list country's military capability or ability to support terrorism.
- Prohibitions on economic assistance.
- Imposition of miscellaneous financial and other restrictions, including:
 - Requiring the United States to oppose loans by the World Bank and other international financial institutions;
 - Lifting the diplomatic immunity to allow families of terrorist victims to file civil lawsuits in U.S. courts;
 - Denying companies and individuals tax credits for income earned in terrorist-list countries;
 - Denial of duty-free treatment for goods exported to the United States;
 - Authority to prohibit any U.S. person from engaging in a financial transaction with a terrorism-list government without a Treasury Department License;
 - Prohibition of Defense Department contracts above \$100,000 with companies controlled by terrorist-list states.

Currently, the State Department designates six countries under these authorities: Cuba, Iran, Libya, North Korea, Sudan and Syria. Cuba is the only designated country in the Western Hemisphere.

Charter Travel to Terrorist States

Title 31 of the Code of Federal Regulations, Chapter V, prescribes the ability and legal method to travel to and do business with countries such as Cuba, Iran, Libya, North Korea, Sudan and Syria. The ability to travel to these countries varies as do the requirements for and the ability to be authorized or licensed by the Office of Foreign Assets Control (OFAC) within the United States Department of the Treasury for such travel. Because of its proximity to Florida and the demographic makeup of the state, Cuba is likely the only listed terrorist state receiving regular charter air and vessel travelers from Florida.

Cultural and Educational Travel to Cuba

Under the Cuban Assets Control Regulations, OFAC may issue specific licenses to accredited United States academic institutions to authorize travel-related transactions related to certain educational activities by students or employees affiliated with the institution. Such licenses are valid for multiple trips over a two-year period. Specific licenses may also be issued (in some instances with extended validity permitting multiple trips) for educational activities that do not take place under the auspices of accredited United States academic institutions. Religious organizations are also eligible for multiple-trip two-year specific licenses authorizing travel-related transactions by their representatives in connection with a program of religious activities in Cuba.

Other travel categories for which specific licenses may be issued include, but are not limited to: free-lance journalism; activities of recognized human rights organizations and other humanitarian projects that directly benefit the Cuban people; certain public performances, clinics, workshops, exhibitions and athletic and other competitions; certain non-commercial activities of private foundations or research or educational institutions; and travel-related transactions involving informational materials, donations of food or exportations of goods licensed by the Department of Commerce.

Effect of Proposed Changes

HB 1171 prohibits funds in the Community College Program Fund and funds made available to community colleges outside the Community College Program Fund to be used to implement, organize, direct, coordinate, or administer, or to support the implementation, organization, direction, coordination, or administration of activities related to or involving travel to a terrorist state. The prohibition includes state or private funds made available to a community college. The bill also places the same prohibition on state or non-state funds made available to the state universities.

HB 1171 defines "terrorist state" as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism. Currently, the State Department designates six countries under these authorities: Cuba, Iran, Libya, North Korea, Sudan and Syria. Cuba is the only designated country in the Western Hemisphere⁵.

HB 1171 prohibits travel expenses of public officers or employees for implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state.

C. SECTION DIRECTORY:

Section 1. Amends s. 1011.81, F.S., prohibiting the use of funds from the Community College Program Fund, or funds made available to community colleges from outside the fund, to implement, organize, direct, coordinate, or administer activities related to or involving travel to a terrorist state; defining "terrorist state".

Section 2. Amends s. 1011.90, F.S., prohibiting the use of state or non-state funds made available to state universities to implement, organize, direct, coordinate, or administer activities related to or involving travel to a terrorist state; defining "terrorist state".

Section 3. Amends s. 112.061, F.S., providing that travel expenses of public officers or employees for the purpose of implementing, organizing, directing, coordinating, or administering activities related to or involving travel to a terrorist state shall not be allowed under any circumstances.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

⁵ Office of the Coordinator for Counter Terrorism, U.S. Department of State, *Country Reports on Terrorism 2004*, p. 88, April 2005.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

A survey conducted by the Division of Community Colleges and Workforce Education of the Florida Department of Education indicated that, in the last five years, one community college has sponsored a trip to a country classified by the Department of State as a terrorist state – i.e., an educational trip to Cuba that was paid for with private funds rather than Community College Program Fund or other state funds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 112.061, F.S., is about per diem and travel expenses of public officers, employees, and *authorized persons*. The bill provides travel expense limitations on public officers and employees, but it is silent on authorized person's travel limitations.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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2006

1 A bill to be entitled
 2 An act relating to travel to terrorist states; amending s.
 3 1011.81, F.S.; prohibiting the use of funds from the
 4 Community College Program Fund, or funds made available to
 5 community colleges from outside the fund, to implement,
 6 organize, direct, coordinate, or administer activities
 7 related to or involving travel to a terrorist state;
 8 defining "terrorist state"; amending s. 1011.90, F.S.;
 9 prohibiting the use of state or nonstate funds made
 10 available to state universities to implement, organize,
 11 direct, coordinate, or administer activities related to or
 12 involving travel to a terrorist state; defining "terrorist
 13 state"; amending s. 112.061, F.S.; providing that travel
 14 expenses of public officers or employees for the purpose
 15 of implementing, organizing, directing, coordinating, or
 16 administering activities related to or involving travel to
 17 a terrorist state shall not be allowed under any
 18 circumstances; defining "terrorist state"; providing an
 19 effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 1011.81, Florida Statutes, is amended
 24 to read:

25 1011.81 Community College Program Fund.--
 26 (1) There is established a Community College Program Fund.
 27 This fund shall comprise all appropriations made by the
 28 Legislature for the support of the current operating program and

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shall be apportioned and distributed to the community college districts of the state on the basis of procedures established by law and rules of the State Board of Education. The annual apportionment for each community college district shall be distributed monthly in payments as nearly equal as possible.

(2) None of the funds made available in the Community College Program Fund, or funds made available to community colleges outside the Community College Program Fund, may be used to implement, organize, direct, coordinate, or administer, or to support the implementation, organization, direction, coordination, or administration of, activities related to or involving travel to a terrorist state. For purposes of this section, "terrorist state" is defined as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism.

Section 2. Subsection (6) is added to section 1011.90, Florida Statutes, to read:

1011.90 State university funding.--

(6) None of the state or nonstate funds made available to state universities may be used to implement, organize, direct, coordinate, or administer, or to support the implementation, organization, direction, coordination, or administration of, activities related to or involving travel to a terrorist state. For purposes of this section, "terrorist state" is defined as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism.

Section 3. Paragraphs (e), (f), and (g) of subsection (3) of section 112.061, Florida Statutes, are redesignated as

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paragraphs (f), (g), and (h), respectively, and a new paragraph (e) is added to that subsection to read:

112.061 Per diem and travel expenses of public officers, employees, and authorized persons.--

(3) AUTHORITY TO INCUR TRAVEL EXPENSES.--

(e) Travel expenses of public officers or employees for the purpose of implementing, organizing, directing, coordinating, or administering, or supporting the implementation, organization, direction, coordination, or administration of, activities related to or involving travel to a terrorist state shall not be allowed under any circumstances. For purposes of this section, "terrorist state" is defined as any state, country, or nation designated by the United States Department of State as a state sponsor of terrorism.

Section 4. This act shall take effect July 1, 2006.

HB 1237 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1237 CS

Advanced Science and Technology Research

SPONSOR(S): Meador

TIED BILLS:

IDEN./SIM. BILLS: SB 2084

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Colleges & Universities Committee	10 Y, 0 N, w/CS	Hatfield	Tilton
2) Economic Development, Trade & Banking Committee	11 Y, 0 N	Olmedillo	Carlson
3) Education Appropriations Committee		Hamon <i>K.W.H.</i>	Hamon <i>K.W.H.</i>
4) Education Council			
5) _____			

SUMMARY ANALYSIS

In a January 30, 2006 press release, the Governor launched new economic development initiatives to bolster the state's efforts to diversify and build Florida's Innovation Economy. To coincide with this initiative, the Governor is recommending a \$630 million investment in the 2006-2007 budget for programs that will generate the innovation needed to create the industries of the future; this includes \$200 million to create and fund the 21st Century Technology, Research and Scholarship Enhancement Act.

The bill creates the 21st Century Technology, Research, and Scholarship Enhancement Act (the Act). The Act provides for the creation of the Florida Technology, Research, and Scholarship Board (the board) within the Board of Governors (BOG) to guide the establishment of Centers of Excellence and the attraction of world class scholars. The board is charged with recommending criteria to the BOG for the 21st Century World Class Scholars Program and with providing guidance to the BOG regarding the implementation and administration of the Centers of Excellence. The Act expires June 30, 2011.

The bill provides for the allocation of state matching funds to attract world class scholars to state universities. The bill requires a state university to raise no less than \$1 million to be eligible for state matching funds to recruit a world class scholar. Funds raised will be eligible for a one-to-one match from the state. The bill prohibits revenues received from state appropriations, student tuition and fees, and state funded contracts or grants to be eligible for the state match.

The bill provides for the creation or expansion of Centers of Excellence. Applicants may include entities other than state universities; however, all applicants must submit and demonstrate coordination with one or more state universities in order to be eligible for funding. The bill requires the board to recommend to the BOG criteria for the approval of proposals to create or expand a center and provides guidelines for the criteria. The bill also requires the board to recommend to the BOG for approval and funding the proposals that meet the approved criteria.

The bill appropriates \$100 million to the 21st Century World Class Scholars Program, \$100 million to the Centers of Excellence Program, and \$399,437 to the BOG for the fiscal year 2006-2007 to implement the Act. See the FISCAL COMMENTS section for further details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill creates the Florida Technology, Research, and Scholarship Board (the board) within the Board of Governors (BOG), requires certain duties of the board, and requires the BOG to provide staff support and other support for the board.

B. EFFECT OF PROPOSED CHANGES:

Background

In 2002, the Governor proposed \$100 million for the creation of Centers of Excellence to increase technology research at state universities and diversify the state's economy by stimulating the high-tech economic job sector. Three Centers of Excellence were created: the Center of Excellence in Biomedical and Marine Biotechnology at Florida Atlantic University, the Florida Photonics Center of Excellence at the University of Central Florida, and the Center of Excellence in Regenerative Health Biotechnology at the University of Florida. The Legislature provided \$30 million for these Centers of Excellence in the 2002-2003 General Appropriations Act (GAA).¹

According to the BOG, as of January 2006, the centers have leveraged the state's investment to achieve the following outcomes:

FISCAL PERFORMANCE MEASURES	FAU	UCF	UF	TOTAL
Amount Of:				
Initial State Funds Awarded	\$10,000,000	\$10,000,000	\$10,000,000	\$30,000,000
Venture Funding Attracted	\$0	\$10,500,000	\$0	\$10,500,000
Other State Grants and Funds Awarded	\$827,138	\$5,062,900	\$0	\$5,890,038
Federal Research Funds Awarded	\$18,789,389	\$15,970,187	\$3,250,000	\$38,009,576
Private Research Funds Awarded	\$3,157,859	\$8,952,539	\$10,000	\$12,120,398
Foundation Funds Invested	\$2,300,000	\$0	\$10,000,000	\$12,300,000
License Income Earned	\$5,500	\$181,250	\$0	\$186,750
TOTAL				\$109,006,762

¹ 2002-2003 General Appropriations Act, Specific Appropriation 173A.

In addition to their performance on fiscal measures, the centers report the following measures of research productivity:

PRODUCTIVITY PERFORMANCE MEASURES²	FAU	UCF	UF	TOTAL
Number Of:				
Research Studies and Articles Published	55	138	125	318
Research Collaborations	27	29	2	58
K-20 Students and Teachers Served	2470	15	100	2585
Industry Internships Granted to Graduate Students	3	15	0	18
Patents Filed	21	40	0	61
Patents Issued	23	14	0	37
Technologies Licensed	3	3	0	6
Affiliated Companies	0	2	1	3
Start up Businesses	3	4	0	7
Out-of-State Businesses Contacted	31	34	5	70
Contacts with Venture Capitalists	14	10	3	27

In a January 30, 2006 press release, the Governor launched new economic development initiatives to bolster the state's efforts to diversify and build Florida's Innovation Economy. To coincide with this initiative, the Governor is recommending a \$630 million investment in the 2006-2007 budget for programs that will generate the innovation needed to create the industries of the future; this includes \$200 million to create and fund the 21st Century Technology, Research and Scholarship Enhancement Act.

- \$100 million is to be used to create and expand the Centers of Excellence around key sectors of the economy. According to the press release, this program would allow state universities and their research partners to leverage public and private dollars to build the infrastructure to support emerging research and development projects. The collaboration between industry and academia would help drive inventions and innovations from the lab to the marketplace.
- \$100 million is to be used to create the World Class Scholars Program. According to the press release, this program would give universities the financial resources to attract leading researchers from around the globe to Florida. Funds may be used for incentives, including building labs, providing high-tech equipment or funding support staff. The state would match the investment of universities dollar-for-dollar.

Effects of Proposed Changes

The bill creates the 21st Century Technology, Research, and Scholarship Enhancement Act (the Act) and provides legislative findings and intent.

The purpose of the Act is to:

- Invest in programs that attract world class scholars and build Centers of Excellence, both of which are important means of increasing technology-based business in this state.
- Require co-investment as a means of leveraging state dollars.
- Align research and development efforts with established, statewide economic-development strategies, including an emphasis on identified economic clusters.
- Facilitate value-added job creation through continuous improvement in university research, as well as entrepreneurship and capital-development programs.
- Establish Florida as a leading state for entrepreneurship and innovation, with continued commitment to university centers and an expanding base of research and development.

The bill defines the following terms for purposes of the Act:

- "A 21st Century World Class Scholar" means a principle researcher/investigator who has high academic credentials, demonstrated competence, and experience that meets the requirements established by the board for a 21st Century World Class Scholar.
- "Applicant" means any state university, private university located in this state, or any private or public research center, community college, or training center in this state which coordinates with a state university for purposes of this act.
- "Board" means the Florida Technology, Research, and Scholarship Board.
- "Center of Excellence" means an organization of personnel, facilities, and equipment established at or in collaboration with one or more state universities to accomplish the purposes and objectives of this act.
- "Research center" means an institute, center, or clinic that includes research and development or education as a principal mission of the organization.
- "State university" means a Florida public university as defined in s. 1000.21, F.S.

Florida Technology, Research, and Scholarship Board

The bill creates the Florida Technology, Research, and Scholarship Board (the board) within the Board of Governors (BOG) to guide the establishment of centers and the attraction of world class scholars. The board consists of 11 members, seven of whom must be appointed by the Governor, two appointed by the President of the Senate, and two appointed by the Speaker of the House. The Governor's appointees must include a member of the board of directors of Enterprise Florida, Inc., and a member of the BOG. Appointed members must be representative of business leaders, industrial researchers, academic researchers, scientists, and leaders in the emerging and advanced technology sector and may not serve more than four years. The chair of the board is appointed by the Governor.

The board members serve without compensation, but are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061, F.S. The BOG must provide support staff for the activities of the board and per diem and travel expenses for board members.

The board is charged with recommending to the BOG criteria for the 21st Century World Class Scholars Program and with providing guidance to the BOG regarding the implementation and administration of the Centers of Excellence Program. In addition, the board must recommend to the BOG the qualifications, standards, and requirements for approval of investments in Centers of Excellence. The bill provides that the board may form committees of its members and encourages the board to consult with certain research entities whose input may be helpful in determining the requirements and standards for the Centers of Excellence Program.

21st Century World Class Scholars Program

The bill provides for the allocation of state matching funds to attract world class scholars to state universities. The bill requires the World Class Scholars Program to be used as a tool to develop the state's capabilities in science and high-technology research, emphasizing Florida's identified strengths in science and technology while also recognizing new technologies as they may emerge.

The bill requires the board to consult with certain state university officials, the Office of Tourism, Trade, and Economic Development, the board of directors of Enterprise Florida, Inc., and leading members of the private industry, to develop and recommend to the BOG the criteria for the World Class Scholars Program. The criteria recommended to the BOG must address, at a minimum:

- The presence of distinguished faculty members, outstanding students, and adequate research and scholarly support services.
- The existence of an academic environment having appropriate infrastructure
- The demonstration of concordance with Florida's strategic plan for economic development or an emphasis on one or more emerging sciences or technologies that could favorably impact the state's economic future.

The bill requires a state university to raise no less than \$1 million to be eligible for state matching funds to recruit a world class scholar. Funds raised will be eligible for a one-to-one match from the state. The bill prohibits revenues received from state appropriations, student tuition and fees, and state funded contracts or grants to be eligible for the state match. Upon verification by the BOG that a state university has met the criteria for a world class scholar, the BOG must release matching funds to the university. The bill requires funds to be used for the purpose of recruiting a World Class Scholar. Funds must also be expended according to an expenditure plan approved by the BOG.

The bill provides that the Act does not replace or obviate existing programs.

Centers of Excellence

The bill also specifies the purposes and objectives of Centers of Excellence, which include recruiting and retaining world class scholars. The bill requires the board to recommend to the BOG criteria for approving proposals to create or expand Centers of Excellence and provides certain factors that must be considered.

The bill requires the board to periodically solicit proposals for Centers of Excellence. Applicants may include entities other than state universities; however, all applicants must submit and demonstrate coordination with one or more state universities in order to be eligible for funding. The board must notify the president of each state university and applicable research centers in this state of the call for proposals.

The board must recommend to the BOG for approval and funding the proposals that meet the approved criteria. If no program is judged worthy of approval during a solicitation cycle, an approval does not have to be made. The bill provides that the Act does not establish a limit for an investment amount; however, any approval for a single center exceeding \$20 million must be documented to have superior prospects for success in its field of research and offer outstanding opportunities to leverage state dollars.

The bill requires a Center of Excellence that receives funding under the Act to provide at least annual reports to the board and the BOG concerning its achievement of objectives as identified in the approved proposal.

Other Provisions

The BOG is required to issue an annual report by December 31 of each year that provides information relating to the World Class Scholars Program and the created or expanded Centers of Excellence. The annual BOG report must be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include a copy of an independent audit of the board and a review of the progress of the programs established pursuant to the Act.

The Act expires June 30, 2011.

The bill appropriates \$100 million to the 21st Century World Class Scholars Program, \$100 million to the Centers of Excellence Program, and \$399,437 to the BOG for the fiscal year 2006-2007 to implement this Act. See the FISCAL COMMENTS section for further details.

The bill provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Creates s. 1004.226, F.S., the 21st Century Technology, Research, and Scholarship Enhancement Act; providing legislative findings and intent; providing definitions; creating the Florida Technology, Research, and Scholarship Board within the Board of Governors; providing for members of the board and terms; providing for board members to be reimbursed for per diem and expenses incurred in the performance of their duties; requiring that the Board of Governors provide staff support and other support for the board; requiring that the board provide recommendations for the 21st Century

World Class Scholars Program and the Centers of Excellence Program; authorizing the board to form committees and consult with certain other entities; providing for the 21st Century World Class Scholar Program to provide matching funds to state universities; providing guidelines for the board in the development of criteria for recommendation to the Board of Governors; requiring a minimum investment of funds; specifying the purposes of the Centers of Excellence; requiring the board to recommend to the Board of Governors criteria for approving proposals to create or expand a Center of Excellence, to solicit proposals, and to recommend proposals that meet such criteria; requiring documentation if funds are approved for a Center of Excellence in excess of a specified amount; requiring reports by Centers of Excellence and the Board of Governors; and providing for the expiration of the act.

Section 2: Appropriates \$200 million from nonrecurring general revenue for the 2006-2007 fiscal year to the Board of Governors, of which \$100 million is allocated for the 21st Century World Class Scholars Program and \$100 million for the Centers of Excellence Program; and provides for carrying forward certain unexpended balances.

Section 3: Appropriates certain sums of money and full-time positions to the Board of Governors for the 2006-2007 fiscal year, for the purpose of administering this act.

Section 4: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides for the establishment of the 21st Century World Class Scholars Program and the creation or expansion of Centers of Excellence. These programs may increase the economic development in this state which in turn may provide for additional employment opportunities for Florida citizens.

D. FISCAL COMMENTS:

For the fiscal year 2006-2007, the bill appropriates a total of \$200 million from nonrecurring general revenue to the BOG, of which \$100 million must be allocated for the 21st Century World Class Scholars Program and \$100 million for the Centers of Excellence Program. The bill requires any unexpended balance from this appropriation to be carried forward at the end of each fiscal year until the 2010-2011 fiscal year. At the end of the 2010-2011 fiscal year, any remaining balance that has not been distributed by the BOG must revert unallocated to the General Revenue Fund.

The bill also appropriates a total of \$399,437 and two full-time equivalent positions to the BOG for the 2006-2007 fiscal year for the purpose of administering this Act. The total appropriation provides for the following:

- Two full-time equivalent positions and \$130,000 in approved annual salary rate.
- The sum of \$162,959 from recurring general revenue funds for salaries and benefits.
- The sum of \$101,892 from recurring general revenue funds for expenses.
- The sum of \$3,800 from nonrecurring general revenue funds for operating capital outlay.
- The sum of \$786 from recurring general revenue funds for transfer to the Department of Management Services for the Human Resources Services Statewide Contract.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other:

In the 2002 General Election, the people amended the State Constitution to create a Statewide Board of Governors to govern, operate, regulate, control, and be fully responsible for the management of the state university system.² The responsibilities include defining university missions, defining articulation with public schools and community colleges, coordinating and operating the university system, and avoiding wasteful duplication of facilities or programs. In addition, the Board of Governors must establish the powers and duties of the university boards of trustees. The Board of Governors' management of the state university system is subject to the power of the Legislature to appropriate for the expenditure of funds. The Board of Governors must account for the expenditure of funds as provided by law.

On December 21, 2004, Floridians for Constitutional Integrity, Inc., filed a complaint for declaratory judgment against the State Board of Education seeking to clarify the powers of the Board of Governors.³ That suit has been partially settled by entry of an order ratifying a mediation agreement between the parties. The agreement declares that the Board of Governors has "full control and authority over the state university system" and that the Board has authority over all "non-appropriated funds administered by the state university system."⁴ The Florida Legislature was not a party to the lawsuit and is not bound by the agreement.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

² s. 7 art. IX, State Constitution.

³ Case No. 2004 CA 003040, filed in the Circuit Court for the Second Judicial Circuit of Florida, Leon County.

⁴ Mediation Agreement dated November 29, 2005, on file with Committee staff.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 14, 2006, the Colleges and Universities Committee adopted an amendment to HB 1237. The bill was reported favorably with a Committee Substitute (CS). The CS differs from the original bill in the following ways:

- Removes the endowment language.
- Prohibits revenues received from student tuition and fees and state funded contracts or grants from being eligible for a state match.
- Requires funds to be expended according to an expenditure plan approved by the BOG.
- Changes the dates funds are to be carried forward and reverted from 2009-2010 to 2010-2011.

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CHAMBER ACTION

The Colleges & Universities Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to advanced science and technology research; creating s. 1004.226, F.S.; creating the 21st Century Technology, Research, and Scholarship Enhancement Act; providing legislative findings and intent; providing definitions; creating the Florida Technology, Research, and Scholarship Board within the Board of Governors of the State University System; providing for members of the board; providing for terms; providing for board members to be reimbursed for per diem and expenses incurred in the performance of their duties; requiring that the Board of Governors of the State University System provide staff support and other support for the board; requiring that the board provide recommendations for the 21st Century World Class Scholars Program and the Centers of Excellence Program; authorizing the board to form committees and consult with certain other entities; providing for the 21st Century World Class Scholars Program to provide matching funds to state universities; providing guidelines

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for the board in the development of criteria for
recommendation to the Board of Governors; requiring a
minimum investment of funds; specifying the purposes of
the Centers of Excellence; requiring the board to
recommend to the Board of Governors criteria for approving
proposals to create or expand a Center of Excellence, to
solicit proposals, and to recommend proposals that meet
such criteria; requiring documentation if funds are
approved for a Center of Excellence in excess of a
specified amount; requiring reports by Centers of
Excellence and the Board of Governors; providing for
expiration of the act; providing appropriations and
authorizing positions; providing for carrying forward
certain unexpended balances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1004.226, Florida Statutes, is created
to read:

1004.226 The 21st Century Technology, Research, and
Scholarship Enhancement Act.--

(1) LEGISLATIVE FINDINGS AND INTENT.--

(a) The Legislature finds that diversifying this state's
economy requires a focus on building a growing base of high-wage
jobs and on nurturing those technologies and clusters that will
be the foundation of Florida's growing economic diversity and
prosperity.

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51 (b) The Legislature further finds that special programs
52 are needed to facilitate the recruitment of exceptional talent
53 to Florida's research universities and centers and to provide
54 the infrastructure and resources that precipitate joint efforts
55 and coinvestment among state research and development
56 institutions, private industry, and government. Florida needs
57 consistent commitment and investment in order to further the
58 state's strategy of capitalizing on innovative research and
59 development to build a thriving, technology-rich economy.

60 (2) CREATION.--The 21st Century Technology, Research, and
61 Scholarship Enhancement Act is created for the purpose of:

62 (a) Investing in programs that attract world class
63 scholars and building Centers of Excellence as an important
64 means of increasing technology-based business in this state;

65 (b) Requiring coinvestment as a means of leveraging state
66 dollars;

67 (c) Aligning research and development efforts with
68 established, statewide economic-development strategies,
69 including an emphasis on identified economic clusters;

70 (d) Facilitating value-added job creation through
71 continuous improvement in university research, as well as
72 entrepreneurship and capital-development programs; and

73 (e) Establishing Florida as a leading state for
74 entrepreneurship and innovation, with continued commitment to
75 university Centers of Excellence and an expanding base of
76 research and development.

77 (3) DEFINITIONS.--As used in this section, the term:

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(a) "A 21st Century World Class Scholar" means a principal researcher/investigator who has high academic credentials, demonstrated competence, and experience that meets the requirements established by the board for a 21st Century World Class Scholar.

(b) "Applicant" means any state university, private university located in this state, or any private or public research center, community college, or training center in this state that coordinates with a state university for purposes of this act.

(c) "Board" means the Florida Technology, Research, and Scholarship Board.

(d) "Center of Excellence" means an organization of personnel, facilities, and equipment established at or in collaboration with one or more state universities to accomplish the purposes and objectives of this act.

(e) "Research center" means an institute, center, or clinic that includes research and development or education as a principal mission of the organization.

(f) "State university" means a Florida public university as defined in s. 1000.21.

(4) FLORIDA TECHNOLOGY, RESEARCH, AND SCHOLARSHIP BOARD.--The Florida Technology, Research, and Scholarship Board is created within the Board of Governors of the State University System to guide the establishment of Centers of Excellence and the attraction of world class scholars.

(a) The board shall consist of 11 members. Seven members shall be appointed by the Governor, one of whom the Governor

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shall appoint as chair of the board, one of whom must be a member of the board of directors of Enterprise Florida, Inc., and one of whom must be a member of the Board of Governors of the State University System. Two members shall be appointed by the President of the Senate and two members shall be appointed by the Speaker of the House of Representatives. Appointed members must be representative of business leaders, industrial researchers, academic researchers, scientists, and leaders in the emerging and advanced technology sector. Appointed members may not serve for more than 4 years and any vacancy that occurs during these appointees' terms shall be filled in the same manner as the original appointment. A majority of members constitutes a quorum.

(b) Members of the board shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses in accordance with s. 112.061 while in the performance of their duties.

(c) The Board of Governors shall provide staff support for the activities of the board and per diem and travel expenses for board members.

(d) The board is charged with recommending criteria to the Board of Governors for the 21st Century World Class Scholars Program and with providing guidance to the Board of Governors regarding the implementation and administration of the Centers of Excellence Program. The board shall recommend to the Board of Governors the qualifications, standards, and requirements for approval of investments in Centers of Excellence under this act. The board may form committees of its members and is encouraged

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to consult with Enterprise Florida, Inc., the Florida Research Consortium, Bio-Florida, IT Florida, the Florida Aviation and Aerospace Alliance, and any other entity whose input may be helpful in determining the requirements and standards for the program.

(5) THE 21ST CENTURY WORLD CLASS SCHOLARS PROGRAM.--

(a) This act allocates state matching funds to attract 21st Century World Class Scholars to state universities.

(b) The 21st Century World Class Scholars Program shall be used as a tool to develop the state's capabilities in science and high-technology research, emphasizing Florida's identified strengths in science and technology while also recognizing new technologies as they may emerge.

(c) The board, in consultation with senior administrators of state universities, state university foundation directors, the Office of Tourism, Trade, and Economic Development, the board of directors of Enterprise Florida, Inc., and leading members of private industry, shall develop and recommend to the Board of Governors criteria for the 21st Century World Class Scholars Program. Such criteria shall address, at a minimum, the following:

1. The presence of distinguished faculty members, including whether the university has a substantial history of external funding, along with the strong potential for attracting a scholar of national or international eminence.

2. The presence of academically outstanding students, along with the promise and potential for attracting additional highly qualified students.

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162 3. The presence of adequate research and scholarly support
163 services.

164 4. The existence of an academic environment having
165 appropriate infrastructure, including buildings, classrooms,
166 libraries, laboratories, and specialized equipment, that is
167 conducive to the conduct of the highest quality of scholarship
168 and research.

169 5. The demonstration of concordance with Florida's
170 strategic plan for economic development or an emphasis on one or
171 more emerging sciences or technologies that could favorably
172 impact the state's economic future.

173 (d) A state university must raise a minimum of \$1 million
174 to be eligible for state matching funds to recruit a 21st
175 Century World Class Scholar. Funds raised by the university
176 shall be eligible for a one-to-one match from the state.
177 Revenues received from state appropriations, student tuition and
178 fees, and state-funded contracts or grants are not eligible for
179 state match.

180 (e) Upon the verification by the Board of Governors that a
181 state university has met the criteria for a 21st Century World
182 Class Scholar, the Board of Governors shall release matching
183 funds to the university. Funds shall be used for the purpose of
184 recruiting a 21st Century World Class Scholar and shall be
185 expended according to an expenditure plan approved by the Board
186 of Governors.

187 (f) Nothing in this act is intended to replace or obviate
188 existing programs.

189 (6) CENTERS OF EXCELLENCE.--

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(a) The purposes and objectives of a Center of Excellence include:

1. Identifying and pursuing opportunities for university scholars, research center scientists and engineers, and private businesses to form collaborative partnerships to foster and promote the research required to develop commercially promising, advanced, and innovative science and technology and to transfer those discoveries to commercial sectors.

2. Acquiring and leveraging public-sector and private-sector funding to provide the totality of funds, personnel, facilities, equipment, and other resources needed to support the research required to develop commercially promising, advanced, and innovative science and technology and to transfer those discoveries to commercial sectors.

3. Recruiting and retaining world class scholars, high-performing students, and leading scientists and engineers in technology disciplines to engage in research in this state and to develop commercially promising, advanced, and innovative science and technology.

4. Enhancing and expanding science and technology curricula and laboratory resources at universities and research centers in this state.

5. Increasing the number of high-performing students in science and technology disciplines who graduate from universities in this state and pursue careers in this state.

6. Stimulating and supporting the inception, growth, and diversification of science and technology-based businesses and

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ventures in Florida and increasing employment opportunities for the workforce needed to support such businesses.

(b) The board shall recommend to the Board of Governors criteria for approving proposals to create or expand a Center of Excellence. Such criteria shall consider:

1. The maturity of the applicant's existing programs relating to a proposed Center of Excellence.

2. The comprehensiveness and effectiveness of site plans relating to a proposed Center of Excellence.

3. The existing amount of the applicant's resources dedicated to activities relating to a proposed Center of Excellence.

4. The regional economic structure and climate.

5. The degree to which the applicant identifies and seizes opportunities to collaborate with other public or private entities for research purposes.

6. The presence of a comprehensive performance and accountability measurement system.

7. The use of an integrated research and development strategy using multiple levels of the educational system.

8. The ability of the applicant to raise research funds and leverage public and private investment dollars to support advanced and emerging scientific and technological research and development projects.

9. The degree to which the applicant transfers advanced and emerging sciences and technologies from its laboratories to the commercial sector.

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244 10. The degree to which the applicant stimulates and
245 supports the creation of new ventures.

246 11. The existence of a plan to enhance academic curricula
247 by improving communication between academia and industry.

248 12. The existence of a plan to increase the number,
249 quality, and retention rate of faculty and graduate students in
250 advancing and emerging science and technology-based disciplines.

251 13. The existence of a plan to increase the likelihood of
252 faculty and graduate students pursuing private-sector careers in
253 the state.

254 14. The ability of the applicant to provide capital
255 facilities necessary to support research and development.

256 (c) The board shall periodically solicit proposals for
257 Centers of Excellence. The board may issue broad solicitations
258 for applicants to establish a Center of Excellence, including
259 entities other than state universities. All applicants must
260 submit and demonstrate coordination with one or more state
261 universities in order to be eligible for funding. The board may
262 solicit proposals for a more defined Center of Excellence that
263 is intended to meet identified needs or capitalize on perceived
264 technology and research opportunities. The board shall notify
265 the president of each state university and applicable research
266 centers in this state of the call for proposals.

267 (d) The board shall recommend to the Board of Governors
268 for approval and funding those proposals that meet the criteria
269 approved by the Board of Governors.

270 (e) If no proposal is judged worthy of approval during a
271 solicitation cycle, an approval need not be made. This act does

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not establish a limit for an investment amount; however, any approval for a single Center of Excellence exceeding \$20 million must be documented to have superior prospects for success in its field of research and offer outstanding opportunities to leverage state dollars.

(7) ANNUAL REPORT.--

(a) Any Center of Excellence receiving funding pursuant to this section shall provide at least annual reports to the board and the Board of Governors concerning its achievement of objectives as identified and presented in the approved proposal.

(b) The Board of Governors shall issue an annual report by December 31 each year of the activities conducted, including the accomplishments and overall economic benefits to the state, the number of 21st Century World Class Scholars attracted, the number of Centers of Excellence created or expanded, the success of collaborations with related industries, and the success of these programs. The annual report shall be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The annual report must include a copy of an independent audit of the board and a review of the progress of programs established pursuant to this section.

(8) EXPIRATION.--This section shall expire June 30, 2011.

Section 2. For the 2006-2007 fiscal year, the sum of \$200 million is appropriated from nonrecurring general revenue to the Board of Governors of the State University System, of which \$100 million shall be allocated for the 21st Century World Class Scholars Program and \$100 million for the Centers of Excellence Program. Notwithstanding s. 216.301, Florida Statutes, and

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pursuant to s. 216.351, Florida Statutes, any unexpended balance
from this appropriation shall be carried forward at the end of
each fiscal year until the 2010-2011 fiscal year. At the end of
the 2010-2011 fiscal year, any remaining balance of this
appropriation that has not been disbursed by the Board of
Governors shall revert unallocated to the General Revenue Fund.

Section 3. The following sums of money and full-time
equivalent positions are appropriated to the Board of Governors
of the State University System for the 2006-2007 fiscal year for
the purpose of administering this act:

(1) Two full-time equivalent positions and 130,000 in
approved annual salary rate;

(2) The sum of \$162,959 from recurring general revenue
funds for salaries and benefits;

(3) The sum of \$101,892 from recurring general revenue
funds for expenses;

(4) The sum of \$3,800 from nonrecurring general revenue
funds for operating capital outlay; and

(5) The sum of \$786 from recurring general revenue funds
for transfer to the Department of Management Services for the
Human Resource Services Statewide Contract.

Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1373 CS

Supplemental Educational Services

SPONSOR(S): Attkisson

TIED BILLS:

IDEN./SIM. BILLS: SB 2616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>PreK-12 Committee</u>	<u>9 Y, 0 N, w/CS</u>	<u>Beagle</u>	<u>Mizereck</u>
2) <u>Education Appropriations Committee</u>	<u></u>	<u>Eggers</u> <i>ME</i>	<u>Hamon</u> <i>K.W.H.</i>
3) <u>Education Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The No Child Left Behind Act of 2001 (NCLB) authorizes the use of federal funds to provide supplemental educational services (SES) to low income children attending low performing schools. States are required to adopt standards governing the provision of SES to eligible students. Currently, there are no provisions in Florida law establishing state standards for SES services.

The bill establishes statewide standards governing the provision of SES and prescribes certain responsibilities to the Department of Education (DOE), local education agencies (LEA), SES providers, and parents.

The bill sets an effective date of July 1, 2006.

This bill does not have a fiscal impact. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill requires the Department of Education and school districts to take certain measures to increase access to supplemental educational services.

Empower Families: The bill increases opportunities for parents to enroll their child in supplemental education services. The bill establishes standards for supplemental educational services providers.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

NCLB authorizes the use of federal funds to provide SES to low income children attending low performing schools. SES may include tutoring, additional instruction, or other services provided outside of the regular school day in reading, language arts, or mathematics.¹

Generally, a student is eligible for SES if the student meets school district established criteria for low income status and is attending a school subject to restructuring or corrective action or in its second year of school improvement.² NCLB requires state education agencies (SEA) to take certain measures to promote provider participation in the provision of SES.³ Each SEA must also follow federally established criteria in establishing state standards for approving providers. Each SEA must maintain and disseminate to school districts a list of the approved providers available in each school district.

School districts are required by NCLB to promptly inform parents that the school their child is attending is in need of improvement.⁴ In addition, school districts must provide parents a list of state-approved providers.⁵ Parents may utilize approved programs conducted by a non-profit entity, a for-profit entity, LEA, an educational service agency, a public school, a public charter school, or a private school.⁶

Currently, there are no provisions in Florida law establishing state standards for SES services.

Effect of Proposed Changes:

House bill 1373 establishes statewide standards governing the provision of SES and prescribes certain responsibilities to the DOE, LEA, SES providers, and parents. Many of these requirements are already in federal law and some build on current requirements of federal law.

Department of Education Responsibilities:

- Identify, notify, promote participation, and approve potential providers.
- Develop pre- and post-assessments to identify and target instruction to student needs and monitor the effectiveness of services.
- Maintain a statewide and regional list of approved providers, and make lists available to school districts.
- Develop standards for monitoring quality and effectiveness of provider services.
- Ensure that LEAs have met obligations to parents.

¹ 34 C.F.R. § 200.45.

² U.S. Department of Education, Supplemental Education Services: Quick Reference for Parents, available at <http://www.ed.gov/parents/academic/help/supplemental-services.html> (Accessed Mar. 16, 2006).

³ Id.

⁴ 34 C.F.R. § 200.37.

⁵ 34 C.F.R. § 200.46.

⁶ 34 C.F.R. § 200.47

- Notify LEAs of specific schools that are subject to restructuring or corrective action or in the second year of school improvement.
- Post a downloadable enrollment application on the DOE website.
- Convene an advisory council to assist DOE in developing regulations to guide the selection and oversight of SES providers.

Local Education Agency Responsibilities:

- Provide recurrent notification to parents of eligible students about the availability of SES.
- Assist parents in obtaining and registering for services.
- Determine per-student funding based on federal law limits.
- Follow prescribed procedures for agreements with SES providers.
- Approve providers in a fair and transparent manner and establish procedures for monitoring provider quality and performance.

Provider Responsibilities:

- Set and target instruction to student achievement goals.
- Establish and explain procedures for monitoring progress and notifying parents and classroom instructors of student progress.
- Ensure that all instruction is secular, neutral, and nonideological.

Parent Responsibilities:

- Request services and select a provider.
- Provide transportation to the student when not otherwise provided by the provider.
- Work with providers to set student goals and maintain open communication with the provider.

In addition, the bill establishes eligibility criteria that SES providers must meet to gain state approval and requires the DOE to establish a system for conducting annual evaluations of all SES providers. The bill establishes a complaint process for parents, students, LEAs, and SES providers for determining whether the DOE and LEAs are in compliance with applicable laws and regulations governing SES.

The bill authorizes the DOE to withhold Title I funds from LEAs that fail to provide SES to eligible students.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law governing the provision of SES.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires the DOE and LEAs to take certain measures to notify parents of eligible students of the availability of supplemental educational services. Private providers approved by DOE may experience an increase in demand for their services.

D. FISCAL COMMENTS:

NCLB requires school districts with schools subject to restructuring or corrective action or in the second year of school improvement to set aside 20% of their Title I funds to pay for SES. The bill requires LEAs to establish per student funding amounts and take certain measures to increase the availability of SES to eligible students. The increased demand for SES that is likely to occur will result in greater expenditures of Title I funds within the 20% set aside for providing SES.

The bill prohibits school districts from using leftover SES funds for other Title I purposes unless the district ensures that a minimum of 50% of eligible students are being served. School districts are required to take additional measures to notify, enroll, and serve SES students and must also obtain a documented denial of services from each parent who does not enroll their student in SES. School districts that fall short of the 50% enrollment criteria despite reasonable efforts to comply with these measures may request authorization from the DOE to redesignate unused SES funds for other Title I purposes.

The bill allows the DOE to withhold Title I funds from school districts that fail to meet certain obligations pertaining to SES services.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds; reduce authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the PreK-12 Committee adopted two amendments to the bill.

The first amendment provides a procedure for LEAs to redesignate unused SES funds for other Title I purposes. The second amendment establishes an advisory council to assist DOE in developing regulations to guide the selection and oversight of SES providers.

This bill analysis reflects the bill as amended.

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CHAMBER ACTION

The PreK-12 Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to supplemental educational services; providing for student access to and provider accountability for supplemental educational services in Title I schools; providing definitions; providing responsibilities of the Department of Education, local educational agencies, providers of supplemental educational services, and parents to provide additional academic instruction designed to increase the academic achievement of eligible students; providing criteria that must be met by a provider approved by the department; providing for department monitoring and evaluation of provider performance; providing a complaint process for determination of provider and local educational agency compliance with law; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

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Section 1. Supplemental educational services in Title I schools; student access and provider accountability.--

(1) DEFINITIONS.--As used in this section:

(a) "Adequate yearly progress" or "AYP" means performance based on a series of performance goals that each school, each local educational agency, and the state must achieve within specified timeframes in order to meet the 100-percent proficiency goal established by the federal No Child Left Behind Act of 2001.

(b) "Eligible student" means a student from a low-income family who attends a Title I school in the school's second year of school improvement, corrective action, or restructuring, as defined by the No Child Left Behind Act of 2001.

(c) "Instructor" or "tutor" means a person employed by a supplemental educational service provider to deliver instruction in reading, language arts, or mathematics to eligible students enrolled in the provider's program.

(d) "Local educational agency" or "LEA" means a local board of education.

(e) "No Child Left Behind Act of 2001" or "NCLB" is a reauthorization of the Elementary and Secondary Education Act of 1965, which is the principal federal law affecting education from kindergarten through high school. The NCLB is designed to improve student achievement and close achievement gaps. States are required to develop challenging academic standards, educate all students to 100-percent proficiency by 2014, and create and implement a single, statewide accountability system.

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(f) "Parent" means the person or persons legally responsible for the guardianship of the student, including a legal guardian.

(g) "Supplemental educational service providers" or "SES providers" are faith-based organizations, for-profit and nonprofit businesses, local educational agencies, schools, institutes of higher education, community groups, and regional educational service agencies approved by the Department of Education to provide additional academic instruction designed to increase the academic achievement of eligible Title I students.

(h) "Supplemental educational services" or "SES" means additional academic instruction provided outside the regular school day that is designed to increase the academic achievement of low-income students, as defined by eligibility for free or reduced-price meals, who attend qualifying schools as defined by the No Child Left Behind Act of 2001.

(i) "Title I" is the Elementary and Secondary Education Act of 1965 program that focuses on improving the academic achievement of disadvantaged students by ensuring that all students have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic standards and assessments.

(2) REQUIREMENTS.--

(a) State responsibilities.--The Department of Education shall:

1. Consult with parents, teachers, school districts, and interested members of the public to identify a large number of

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SES providers so that parents have a wide variety of high-quality choices.

2. Provide and disseminate broadly an annual notice to potential providers outlining the process for obtaining approval to be an SES provider. There shall be at least two opportunities each year for potential providers to submit their applications to the department.

3. Develop and apply objective criteria for approving potential providers. Each provider's SES program shall:

a. Include an appropriate, diagnostic assessment for use in identifying a student's weaknesses and achievement gaps upon which to build an individual student learning plan and learning goals.

b. Use targeted remediation or instruction that is aimed at addressing a student's skill gaps revealed during the assessment and that is based upon an individual student learning plan.

c. Include a post assessment linked to the diagnostic assessment to determine whether student learning gains occurred and to further develop a plan for either reteaching skills or identifying new skills for instruction.

d. Align with the Sunshine State Standards in the area of reading or mathematics, or both.

e. Supplement the academic program a student experiences in the regular school day.

f. Use high-quality, research-based instructional practices that are specifically designed to increase students' academic achievement.

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- 106 4. Maintain an updated list of approved providers.
- 107 5. Exercise authority to investigate and remove providers
108 from the approved list based on evaluation results.
- 109 6. Make available to school districts a list of available
110 approved providers in their general geographic locations.
- 111 7. Develop, implement, and publicly report on monitoring
112 standards for providers to ensure the quality and effectiveness
113 of services offered by approved providers.
- 114 8. Ensure that an LEA has fully met parental demands for
115 SES. In determining whether an LEA has fully met parental
116 demands for SES, the department shall consider whether an LEA
117 has:
 - 118 a. Appropriately notified all eligible parents of the
119 availability of SES.
 - 120 b. Adequately publicized options to parents through
121 multiple forums in understandable formats and languages.
 - 122 c. Offered parents a reasonable period of time to
123 investigate their options and submit their requests for SES.
- 124 9. No later than May 1 each year, notify LEAs of the
125 specific schools that are in the second year of school
126 improvement, corrective action, or restructuring and have not
127 achieved AYP since such identification.
- 128 10. Place on its Internet website a standard, downloadable
129 enrollment application to be used by parents of eligible
130 students, which must be used by all LEAs for SES enrollment
131 purposes.
- 132 11. Convene an advisory committee to assist it in
133 developing regulations to guide the selection and oversight of

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SES providers. These regulations shall be designed in order to ensure that qualified providers utilize sound practices, provide financial accountability, and utilize recommended or sufficient metrics to best gauge provider effectiveness, such as effectiveness in raising student achievement. The committee shall include:

a. Two members appointed by the Speaker of the House of Representatives.

b. Two members appointed by the President of the Senate.

c. Two district school board members appointed by the Governor.

d. Parents appointed by the Governor.

e. Seven providers representing the different types of providers in the SES field, such as on-line providers and small and large for-profit, nonprofit, community-based, district-based, and faith-based providers, appointed by the Governor.

The Commissioner of Education or his or her designee shall chair the committee and submit for approval a proposal to the Legislature no later than the end of the 2007 legislative session.

(b) LEA responsibilities.--An LEA shall:

1. No later than 90 days prior to the start of the school year, notify parents of eligible students about the availability of SES. Notification shall meet the following criteria:

a. Be sent at least twice annually.

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b. Be provided in an understandable and uniform format and, to the extent practicable, in a language the parents can understand.

c. Describe how parents may obtain services.

d. Provide a minimum of 20 school days for parents to select and notify the LEA regarding a selected provider.

e. Create a streamlined, one-step SES parent registration and provider selection process that is user friendly.

2. Help parents choose a provider, if such assistance is requested, making sure that such assistance is unbiased and does not provide advantage for one provider over another, including the LEA if such LEA is an approved provider, and obtain permission from parents to release assessment data to a selected provider.

3. Determine and prioritize students who shall receive services if not all students can be served. Determination shall be made in accordance with eligibility criteria established in federal law and with guidance from the United States Department of Education, ensuring that prioritization does not take place in advance of actual demand being documented and shall be based on the 20-percent set-aside minus any actual costs associated with providing transportation for public school choice pursuant to subparagraph 18.

4. Determine the per-student spending limit according to federal law only, which amount shall not be reduced or otherwise altered.

5. Ensure that the opportunity to acquire SES is offered to eligible students on a continuous basis or, at a minimum,

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twice every school year, such as once at or near the start of
the school year and once at or near the start of each new
calendar year. An LEA that does not offer at least two
opportunities for SES enrollment shall not amend unobligated SES
into the general Title I budget.

6. Enter into an agreement with a provider selected by the
parent of an eligible student no later than 45 days after the
beginning of the school year or within 45 days after receiving
notification of school improvement status. The same procedure
shall be followed for subsequent enrollments during the school
year. An LEA that does not begin to offer SES within such time
periods shall not amend unobligated SES funds into the general
Title I budget. The agreement shall include, at a minimum:

a. A statement of specific achievement goals for each
eligible student whose parent elects to receive SES from the
approved provider.

b. A description of how student progress will be measured.

c. Progress reports for each student to whom a provider
gives services under the agreement.

d. Procedures for obtaining parental consent to release
assessment data to a selected provider.

e. Procedures for termination of the agreement with the
provider based on specific and material cause and include an
opportunity for the provider to cure any such breach.
Termination for convenience clauses shall not be allowed.

f. The payment process for students receiving SES, with
reimbursement for services to occur within 60 days following
submission of a complete invoice.

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g. Records of attendance for each student receiving SES.

h. Security of information relating to students receiving SES.

i. The procedure for facility access for providers, using a fair, transparent, and objective process, to operate on site in a school or schools identified for school improvement, corrective action, or restructuring, free of charge or for a reasonable fee, on the same basis and terms as are available to other groups that seek access to the school building.

j. The process for records maintenance of a provider's SES to students.

k. Guidelines specifying secular, neutral, and nonideological instruction and content.

l. An outline of applicable federal, state, and local laws, and rules and regulations required by law, in connection with providing tutorial service.

7. Establish monitoring procedures to ensure that providers fulfill their contractual obligations. Monitoring should include tracking student progress toward meeting the state's academic standards.

8. Select an approved provider or providers, using a fair, transparent, and objective process, to operate on site in a school or schools identified for school improvement, corrective action, or restructuring, free of charge or for a reasonable fee, on the same basis and terms as are available to other groups that seek access to the school building. The LEA shall not select a provider or providers based on a reduced per-student amount as calculated under federal law or other criteria

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that would otherwise be a department responsibility or
programmatic design criteria, such as the requirement of
specific student-tutor ratios.

9. Enter into a compact with the provider, parent, and
student. The compact, which shall be maintained for monitoring
purposes, shall include, at a minimum:

a. A notification letter to the parent of a student who is
eligible to receive SES from an approved provider.

b. Procedures regarding how the SES provider may contact
schools and parents regarding available services.

c. Development of a collaborative relationship with the
LEA to ensure that issues and concerns are handled in a timely
and efficient manner.

d. Specific achievement goals for the student, which shall
be developed in consultation with the student's parent.

e. An established timetable for improving the student's
achievement.

f. Selection of a provider from the department's approved
provider list.

g. Scheduled tutoring sessions.

10. Assist the department as needed in identifying
potential providers within the school district.

11. Provide the information the department needs to
monitor the quality and effectiveness of the SES offered by
providers as specified in federal law.

12. Protect the privacy of students who receive SES. The
LEA shall provide achievement data of students to providers
serving those students.

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13. Notify parents immediately if a provider becomes ineligible to serve as an SES provider. Notification shall include the steps parents must follow in order to secure another provider.

14. Provide approved providers with registration forms and logistical information, including the procedures parents must follow in obtaining SES for their children.

15. While appealing an AYP decision, continue to provide services while the appeal is being resolved and a final AYP determination is being made. If an appeal is granted, the LEA shall continue to serve students currently receiving SES until the end of the contract period but is not obligated to provide SES to additional students.

16. Include in a school improvement plan steps to ensure that eligible students will receive SES as required by law whenever a school is classified as needing improvement for a second or subsequent year.

17. Ensure that eligible students from any school that is in the second year of school improvement, corrective action, or restructuring and has not achieved AYP at least once since such identification shall be offered SES before the start of the school year.

18. Set aside up to 20 percent of its Title I, Part A allocation for SES. Before determining that an amount less than 20 percent of its allocation is needed for choice-related transportation and SES, an LEA shall document to the department that it has fully met demands for these services. An LEA must document, and make publicly available, that it has:

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a. Appropriately notified all parents of eligible students of the availability of public school choice and SES.

b. Adequately publicized the options to parents in understandable formats and multiple forums.

c. Offered parents a reasonable period of time to investigate their options and submit their requests for either public school choice or SES.

LEAs may redesignate unused SES funds for other Title I purposes by the May 15 consolidated application budget amendment deadline by ensuring that a minimum of 50 percent of the students eligible to receive SES are served by an approved provider. LEAs not meeting the 50-percent requirement shall submit to the department a list of eligible students, students receiving services, and otherwise eligible students on a wait list. LEAs must obtain documentation from the parents of unserved, but otherwise eligible, students that they decline to participate in SES for that school year. LEAs that are unable to meet the 50-percent requirement despite reasonable efforts to comply with these provisions may submit a request to the department for authorization to redesignate unused SES funds. Redesignation requests shall be approved if the department finds that the LEA has met the requirements of subparagraph (a)8.

(c) Provider responsibilities.--The provider shall:

1. Agree to negotiate directly with LEAs to determine scheduled sessions per student. Cost of services shall not exceed the per-student spending limit calculated by each LEA.

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- 327 2. Set specific achievement goals for each student, which
328 shall be developed in consultation with each student's parent.
- 329 3. Provide a description of how each student's progress
330 will be measured and how each student's parent and instructors
331 will be regularly informed of that progress.
- 332 4. Establish a timetable for improving each student's
333 achievement.
- 334 5. Agree not to disclose to the public the identity of any
335 student eligible for or receiving SES without the written
336 permission of the student's parent.
- 337 6. Agree to meet all applicable federal, state, and local
338 health, safety, and civil rights laws.
- 339 7. Ensure that all instruction and content are secular,
340 neutral, and nonideological.
- 341 8. Ensure that instruction is consistent with student
342 achievement goals.
- 343 9. Agree to abide by the education industry association's
344 current version of the SES code of ethics.
- 345 (d) Parent responsibilities.--The parent shall:
- 346 1. Request SES for the student.
- 347 2. Select a provider from the department's approved
348 provider list.
- 349 3. Transport students to and from the place of service
350 when not provided by the provider.
- 351 4. Work with the provider to set achievement goals for the
352 student.
- 353 5. Maintain open communication with a provider about a
354 student's progress.

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355 (e) Provider criteria.--
 356 1. Providers shall meet the following criteria:
 357 a. Have a demonstrated record of effectiveness in
 358 improving student academic achievement.
 359 b. Document that the instructional strategies used by the
 360 provider are of high quality, based upon research, and designed
 361 to increase student academic achievement.
 362 c. Document that services are aligned with the Sunshine
 363 State Standards in the area of reading or mathematics, or both.
 364 d. Provide evidence that the provider is financially
 365 sound.
 366 e. Document that the provider will provide SES consistent
 367 with all applicable federal, state, and local health, safety,
 368 and civil rights laws.
 369 f. Meet all requirements set forth in guidelines issued by
 370 the department, including, but not limited to, reporting
 371 requirements, application requirements, deadlines, timelines,
 372 and standards.
 373 g. Provide instruction that is secular, neutral, and
 374 nonideological.
 375 2. Providers applying for statewide provider status upon
 376 request shall serve students in any LEA regardless of the
 377 geographical location. Providers approved for statewide provider
 378 status may be removed from the provider list if this requirement
 379 is not met. Providers removed from the statewide list may
 380 reapply and specify a geographical area for their service.
 381 (f) Monitoring and evaluation.--

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382 1. The department shall monitor, at least annually, all
383 providers currently serving students. Monitoring shall be
384 conducted at a representative sample of the locations at which
385 the provider serves participating students.

386 a. The department shall schedule with the provider a
387 mutually agreeable date and time for a monitoring visit. Prior
388 to a monitoring visit, the department shall send to the
389 provider, in writing, confirmation of the scheduled date and
390 time.

391 b. Prior to a monitoring visit, the department shall
392 notify the provider of all documentation necessary to
393 demonstrate compliance with all applicable state and federal
394 laws related to SES. The provider may request technical
395 assistance from the department in identifying the relevant
396 documents.

397 c. A provider's performance on each monitoring standard
398 and a provider's overall performance rating shall be indicated
399 on the SES provider monitoring form. The department shall send
400 to the provider, in a timely manner, a copy of the completed
401 monitoring form that includes notes regarding items of
402 documentation that are missing or incomplete.

403 2. The department shall develop specific procedures to
404 annually evaluate all providers that have served students for 2
405 or more consecutive years in reading, language arts, or
406 mathematics. These procedures shall:

407 a. Account for, and be fair to, providers that serve both
408 large and small populations of students and that use varying
409 methods of instruction.

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b. Be fair and sensitive enough to record gains of individual students, especially students whose achievement level is several grades behind grade level.

c. Isolate the effects of SES from other variables that might affect a student's achievement using regression analysis, comparison groups, or other valid and reliable statistical means.

d. Collect qualitative data on parental satisfaction with provider services.

e. Include safeguards against potential conflicts of interests when the LEA is also an approved provider and is involved in provider monitoring and evaluation.

3. If the department determines that a provider has failed to contribute to increasing the academic proficiency of students for 2 or more consecutive years in reading, language arts, or mathematics in a specific LEA, the department shall remove the provider from the approved provider list for that LEA.

4. The provider shall have the opportunity to appeal the department's decision to the State Board of Education. The provider may reapply to the department for approval after a 1-year waiting period.

5. The department shall require an LEA to submit:

a. The parental notification letters the LEA has developed and utilized to inform parents of eligible students.

b. At least twice during the school year, updated information on how many students in the LEA are eligible for SES and how many students make use of SES.

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c. How much money, in total dollars and per student, is being spent by the LEA on SES.

(g) Complaint process.--

1. The department shall monitor complaints from parents, students, SES providers, school districts, and other individuals to determine whether LEAs and SES providers are in compliance with the applicable state and federal laws, rules, regulations, and guidance governing the provision of SES. The department shall annually provide a summary report to the State Board of Education.

2. An organization or individual may file with the department a signed, written complaint setting forth allegations of noncompliance. The written complaint shall include, at a minimum:

a. A clear statement of the allegation.

b. A summary of the facts upon which the allegation is based.

c. Any documentation supporting the allegation.

d. The complainant's contact information, including the name of an individual complainant or an authorized representative of the complainant organization and the address and telephone number of the individual or representative.

3. Complaints received from an organization or individual shall be signed and addressed in writing to the department.

4. The department shall acknowledge, in writing, its receipt of a complaint within 15 business days.

5. The department shall, in a timely manner, commence an investigation of the allegations set forth in the complaint and

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465 make an independent determination as to whether the allegations
466 warrant further review or action.

467 6. If necessary, the department may conduct an onsite
468 visit to clarify any issues raised by the complaint. An onsite
469 investigation team may examine relevant records and conduct
470 interviews of relevant persons to determine whether there has
471 been a violation of any applicable state or federal law, rule,
472 regulation, or guideline.

473 7. The department shall send written notification to all
474 appropriate parties of the steps necessary to resolve the
475 complaint, including technical assistance activities,
476 negotiations, and corrective actions to achieve compliance. This
477 notification may include specific requirements and timelines
478 that must be met in order to ensure that providers other than
479 LEAs continue to receive SES funds from the LEA. LEAs that are
480 providers shall meet the requirements in order to ensure that
481 funds equal to the amount of their SES set-aside are available
482 in the department's grants accounting system.

483 8. Upon conclusion of the department's investigation, the
484 department shall take appropriate action to remedy violations of
485 applicable laws, rules, regulations, or guidelines, including
486 removal of a provider from the approved provider list.

487 9. If the department makes the decision to remove a
488 provider from the approved provider list, the LEA shall be
489 notified no later than 10 business days after the department's
490 action. Each provider notified of the decision shall have the
491 right to appeal such decision prior to its becoming final.

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492 10. If an LEA does not comply with providing SES to
493 eligible students within the established timeframe, the
494 department shall withhold funds equal to the amount of the LEA's
495 SES set-aside funds until the LEA complies.

496 11. If funds are withheld from an LEA for not providing
497 SES to eligible students within the specified timeframe, the
498 department may enter into agreements with providers in lieu of
499 the LEA.

500 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7039 PCB CI 06-01 K-8 Virtual Schools

SPONSOR(S): Choice & Innovation Committee

TIED BILLS: **IDEN./SIM. BILLS:** SB 1282

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee	7 Y, 0 N	Hassell	Kooi
1) Education Appropriations Committee		Eggers <i>ME</i>	Hamon <i>K. Art.</i>
2) Education Council			
3) _____			
4) _____			
5) _____			

SUMMARY ANALYSIS

The bill establishes the K-8 Virtual School Program as an optional educational choice program within the Department of Education. Like the K-8 Virtual School pilot programs, the K-8 Virtual School Program is established to deliver academic instruction through the use of on-line and distance learning technology to full-time students in kindergarten through eighth grade.

The bill provides for K-8 Virtual School Program student and school eligibility requirements, application procedures, participating school responsibilities, funding mechanisms, assessment and accountability, and causes for nonrenewal or termination of contract. Additionally, this bill addresses the participation of current schools currently in the K-8 Virtual School pilot program.

The K-8 Virtual School Program is subject to annual legislative appropriation in the General Appropriations Act. The Department of Education states that it would require 4 additional FTE staff positions in order to implement the K-8 Virtual School Program. Please see the FISCAL ANALYSIS section of the analysis.

The bill allows for the State Board of Education to adopt rules to implement and administer the K-8 Virtual School Program.

The bill provides for an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill increases the number of public school educational choice options available to K-8 public school students.

Safeguard individual liberty – The bill codifies a K-8 virtual educational choice option for parents of public school students.

Empower families – The bill provides parents of K-8 public school students with an opportunity to exercise parental choice by enrolling their child in a K-8 Virtual School program.

B. EFFECT OF PROPOSED CHANGES:

Background

In 2003, the Legislature authorized the Department of Education (DOE) to provide for the creation of at least two K-8 Virtual School pilot programs. The two pilot programs selected by the DOE were Connections Academy, Inc. and K12, Inc. The schools provide computers and help cover the cost of Internet access for their students who complete 10 to 30% of their work on-line depending on the grade level. Both of these schools utilize the parent or other responsible adult as the students' primary teachers while the virtual school teachers oversee the students' progress by checking samples of their work. These programs use on-line curriculum, lessons, and progress tests as well as books and other more traditional learning materials. A parent-teacher telephone conference is required at least once every two weeks. However, parents can reach virtual school teachers through e-mail or telephone at other times.

The 2003 and 2005 Legislature appropriated \$4,800,000 for the K-8 Virtual School pilot programs. The pilot programs were funded with grants of up to \$4,800 per student with a total enrollment not to exceed 1,000 students. The 2004 Legislature funded the grants in the same amount per student with total funding not to exceed \$3,800,000, reducing student enrollment to 800 students. However, total student enrollment for the pilot programs returned to 1,000 students with the 2005 appropriation.

Effects of Proposed Changes

The bill establishes the K-8 Virtual School Program as an optional educational choice program within the Department of Education. Like the K-8 Virtual School pilot programs, the K-8 Virtual School Program is established to deliver academic instruction through the use of on-line and distance learning technology to full-time students in kindergarten through eighth grade. The bill provides for K-8 Virtual School Program student and school eligibility requirements, application procedures, participating school responsibilities, funding mechanisms, assessment and accountability, and causes for nonrenewal or termination of contract. Additionally, this bill addresses the participation of current schools in the K-8 Virtual School pilot program.

The K-8 Virtual School Program would still be subject to annual legislative appropriation. State funding for each participating school will continue to be based on total program enrollment and an amount per full-time equivalent student that is established each year in the General Appropriations Act. Consequently, until funds are appropriated it is unclear as to how many students would be able to participate in the program.

Student Eligibility

The bill provides that any K-8 student in Florida is eligible for enrollment in one of the participating K-8 Virtual Schools if the student meets one of the following conditions:

- The student has spent the prior school year in attendance at a Florida public school.
- The student was enrolled during the prior school year in a K-8 virtual school.
- The student is eligible to enroll in kindergarten or the first grade.
- The student has a sibling who is currently enrolled in a K-8 virtual school and was enrolled at the end of the prior school year.

Students enrolled in a K-8 virtual school are subject to the compulsory school attendance requirements of s. 1003.21, F.S., and must take the statewide assessments required under s.1008.22. Furthermore, the bill requires that the student's school district of residence must provide that student with access to the district's testing facilities.

School Eligibility and Application Procedures

The bill provides that schools eligible to participate in the K-8 Virtual School program include for-profit and nonprofit entities. However, an eligible school must meet all of the following conditions:

- Be nonsectarian in its programs, admission policies, employment practices, and operations.
- Comply with the antidiscrimination provisions of s. 1000.05, F.S.
- Participate in the state's performance accountability system pursuant to s. 1008.31, F.S.
- Locate its administrative office in the state and require all administrative and instructional personnel to be Florida residents.
- Require no tuition or student registration fee.

The bill requires the DOE to provide applicants with an application form in a sufficient time so that schools can apply and be approved by the DOE by the beginning of the 2007-2008 school year. Also, the bill requires the DOE to approve or deny an application within 90 days after the receipt of the application.

In addition to information that the DOE may require, the bill requires applicants to verify that they meet all eligibility criteria, that their school's instructional staff are professional educators certified pursuant to chapter 1012, and that all school employees have undergone the background screening requirement under s. 1012.32, F.S. Furthermore, the bill requires that each applicant provide the DOE with an education plan detailing how their curriculum and course content conforms to the Sunshine State Standards and a detailed annual financial plan for each year of operation for a minimum of 3 years.

Participating Schools and Pilot Schools

The bill provides for an initial 3-year contract between an approved virtual school and the DOE, subject to annual DOE review and legislative appropriation. Also, the bill provides for contract renewals for up to 5 years, subject to annual legislative appropriation.

The bill requires all schools participating in the K-8 Virtual School Program to provide each student with all necessary instructional material, each household with equipment such as a computer, monitor, and printer, and each household with access to or reimbursement for all Internet services necessary for the delivery of on-line instruction.

The bill authorizes the two K-8 Virtual School pilot programs to continue operation for the 2006-2007 school year, subject to the applicable provisions detailed in this bill. Furthermore, the bill requires the two pilot programs to apply to and be approved by the DOE in order to participate in the K-8 Virtual School Program beyond the 2006-2007 school year.

Assessment and Accountability

The bill provides that schools participating in the K-8 Virtual Schools must participate in the statewide assessments and be subject to the school grading system pursuant to s. 1008.34, F.S. Furthermore, a participating school that receives a performance grade of D or F is required to develop and file a school improvement plan with the DOE. In the event that a participating school receives a performance grade category of D or F for 2 school years in a 4-year period, the bill requires the DOE to terminate the contract.

Causes for nonrenewal or termination of contract

The bill grants the DOE authority to choose not to renew a contract or to terminate a current contract with a school participating in the K-8 Virtual School Program for any of the following reasons:

- Failure to participate in the state's performance accountability system.
- Failure to receive a school performance grade of C or better for 2 school years in a 4-year period.
- Failure to meet generally acceptable standards of financial management.
- Violation of law.
- Failure of the Legislature to fund the K-8 Virtual School Program.
- Other good cause shown.

The bill requires students who attended a school that is either not renewed or terminated to apply to and be enrolled in another public school. Also, the bill provides that the virtual school is responsible for all debts of the school in the event that it is either not renewed or terminated.

C. SECTION DIRECTORY:

Section 1. Creates s. 1002.375, F.S., establishing the K-8 Virtual School Program.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The K-8 Virtual School Program is subject to annual legislative appropriation in the General Appropriations Act. Operational expenses for traditional students are funded predominantly through the Florida Education Finance Program (FEFP) which is a combination of state and local funds.

According to the DOE analysis, the DOE would need 4 additional FTE staff positions for the implementation of this program.¹ However, the DOE currently administers and oversees the K-8 Virtual School pilot program within existing resources. Therefore, unless the funds appropriated are significantly increased, any additional costs should be minimal.

¹ Florida Department of Education, Governmental Relations Office, 2006 Legislative Bill Analysis on PCB06-01: K-8 Virtual School Program

The classifications of the 4 positions proposed by the DOE and associated recurring costs are as follows:

Program Specialist II (2)

Base Salary	33,826
Benefits	13,159
Expenses	9,746
OCO	1,900
Human Resource Services	393
	$\$59,024 \times 2 = \$118,048$

Program Specialist IV (1)

Base Salary	42,655
Benefits	14,570
Expenses	9,746
OCO	1,900
Human Resource Services	393
	$\$69,264 \times 2 = \$138,528$

The total recurring costs for additional staff, assuming additional funding made them necessary, would be \$256,576.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

For traditional students in the FEFP, per full time equivalent student funding for operations is \$6,153 in Fiscal Year 2005-06.² Current funding for the K-8 Virtual Schools pilot program is \$4,800 as specified in the 2005-06 General Appropriations Act. The House Proposed General Appropriations Act for 2006-07 (House Bill 5001, Specific Appropriation 106B) contains \$7 million for K-8 Virtual Education with grants of up to \$5,200 per student.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

² Florida Education Finance Program third calculation, dated December 19, 2005.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill gives the State Board of Education rulemaking authority pursuant to ss. 120.536(1) and 120.54, F.S., to adopt rules for the implementation and administration of this program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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1 A bill to be entitled
2 An act relating to K-8 virtual schools; creating s.
3 1002.375, F.S.; establishing the Kindergarten through
4 Grade 8 (K-8) Virtual School Program within the Department
5 of Education; providing student eligibility requirements;
6 requiring enrolled students to meet compulsory school
7 attendance requirements and participate in the statewide
8 assessment program; providing school eligibility
9 requirements; authorizing schools to be for-profit or
10 nonprofit entities; providing a school application
11 procedure; requiring applicants to verify certain
12 information and submit certain plans; providing for 3-year
13 contracts for approved schools and authorizing contract
14 renewals; designating participating schools as independent
15 schools; requiring schools to provide each student with
16 the materials, equipment, and services necessary to
17 receive instruction; authorizing the current pilot K-8
18 virtual schools to continue operation through the 2006-
19 2007 school year; requiring pilot schools to meet all
20 application requirements in order to operate beyond the
21 2006-2007 school year; requiring program funding to be
22 established annually in the General Appropriations Act and
23 providing a payment schedule to schools; requiring schools
24 to participate in the statewide assessment program and be
25 subject to the school grading system; requiring school
26 improvement plans for low-performing schools and contract
27 termination for continued low school performance;
28 providing causes for nonrenewal or termination of a school

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contract and responsibility for debt; providing for student enrollment in another public school under certain circumstances; requiring rulemaking; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1002.375, Florida Statutes, is created to read:

1002.375 K-8 Virtual School Program.--

(1) K-8 VIRTUAL SCHOOL PROGRAM.--Subject to annual legislative appropriation, the Kindergarten through Grade 8 (K-8) Virtual School Program is established within the Department of Education for the purpose of making academic instruction available to full-time students in kindergarten through grade 8 using on-line and distance learning technology. The department must use an application process to select schools to participate in the program and to deliver program instruction.

(2) STUDENT ELIGIBILITY.--

(a) Enrollment in each participating school is open to any K-8 student in the state provided the student meets at least one of the following conditions:

1. The student has spent the prior school year in attendance at a Florida public school. Prior year school attendance means the student was enrolled and reported by a public school district for funding during the preceding October and February Florida Education Finance Program surveys.

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56 2. The student was enrolled during the prior school year
57 in a K-8 virtual school funded pursuant to this section or the
58 2005-2006 General Appropriations Act.

59 3. The student is eligible to enroll in kindergarten or
60 the first grade.

61 4. The student has a sibling who is currently enrolled in
62 a participating K-8 virtual school and was enrolled at the end
63 of the prior school year.

64 (b) Students enrolled in a participating K-8 virtual
65 school are subject to the compulsory school attendance
66 requirements of s. 1003.21. Student attendance must be verified
67 according to department procedures.

68 (c) Each student enrolled in a participating K-8 virtual
69 school must take the statewide assessments required under s.
70 1008.22 within the student's school district of residence, which
71 must provide that student with access to the district's testing
72 facilities.

73 (3) SCHOOL ELIGIBILITY.--

74 (a) To be eligible to participate in the K-8 Virtual
75 School Program, a school must meet the following conditions:

76 1. Be nonsectarian in its programs, admission policies,
77 employment practices, and operations.

78 2. Comply with the antidiscrimination provisions of s.
79 1000.05.

80 3. Participate in the state's performance accountability
81 system created under s. 1008.31.

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4. Locate its administrative office in the state and require its administrative and instructional staff members to be state residents.

5. Require no tuition or student registration fee.

(b) Schools applying to participate in the K-8 Virtual School Program may be for-profit or nonprofit entities.

(4) APPLICATION PROCEDURES.--

(a) The department must provide an application form to be completed by schools seeking to participate in the K-8 Virtual School Program. Initial application forms must be made available in sufficient time to enable schools to apply and be approved to participate in the program by the beginning of the 2007-2008 school year. In addition to information that may be required by the department, each applicant must provide verification that:

1. The applicant meets the eligibility criteria required by this section.

2. All members of the school's instructional staff are professional educators certified according to the provisions of chapter 1012.

3. All school employees have undergone background screening as required by s. 1012.32.

(b) In addition to a completed application form, each applicant must provide the department with:

1. A detailed plan describing how the school curriculum and course content will conform to the Sunshine State Standards.

2. An annual financial plan for each year of operation of the school for a minimum of 3 years. The plan must contain anticipated fund balances based on revenue projections, a

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spending plan based on projected revenues and expenses, and a
description of controls that will safeguard finances and
projected enrollment trends.

(c) The department must approve or deny a school's
participation in the K-8 Virtual School Program within 90 days
after the receipt of an application.

(5) PARTICIPATING SCHOOLS.--

(a) A school approved by the department to participate in
the K-8 Virtual School Program must receive an initial 3-year
contract with the department to provide program services,
subject to annual department review and legislative
appropriation. Contract renewals may be for up to 5 years upon
agreement of both parties, contingent upon annual funding in the
General Appropriations Act.

(b) A school approved to participate in the program is
deemed to be an independent virtual school, providing on behalf
of the state a full-time, 180-day, on-line program of
instruction to students in kindergarten through grade 8.

(c) A school approved to participate in the program must
provide each student with:

1. All necessary instructional materials.

2. All equipment, including, but not limited to, a
computer, computer monitor, and printer for each household that
has a student enrolled in the virtual school.

3. Access to or reimbursement for all Internet services
necessary for on-line delivery of instruction for each household
that has a student enrolled in the virtual school.

(6) PILOT SCHOOLS.--

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(a) The two pilot K-8 virtual schools for which funding was provided in the 2005-2006 General Appropriations Act are authorized to continue operation for the 2006-2007 school year.

(b) With the exception of the application and contracting requirements, the pilot schools are subject to the provisions of this section for the 2006-2007 school year.

(c) Each pilot school must complete the application requirements of this section and be approved by the department in order to participate in the K-8 Virtual School Program beyond the 2006-2007 school year.

(7) FUNDING.--

(a) State funding for each participating K-8 virtual school must be based on total program enrollment and an amount per full-time equivalent student established annually in the General Appropriations Act.

(b) Upon proper documentation of student enrollment reviewed and approved by the department, payments must be made to participating K-8 virtual schools in four equal payments no later than September 1, November 1, February 1, and April 15 of each academic year. The initial payment must be made after department verification of student admission acceptance, and subsequent payments must be made upon verification of continued enrollment and attendance.

(8) ASSESSMENT AND ACCOUNTABILITY.--

(a) Each participating K-8 virtual school must participate in the statewide assessment program created under s. 1008.22 and be subject to the school grading system created under s. 1008.34.

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166 (b) A participating K-8 virtual school with a performance
167 grade category of "D" or "F" must file a school improvement plan
168 with the department for consultation to determine the causes for
169 low performance and to develop a plan for correction and
170 improvement.

171 (c) The department must terminate the contract of any K-8
172 virtual school receiving a performance grade category of "D" or
173 "F" for 2 school years in a 4-year period.

174 (9) CAUSES FOR NONRENEWAL OR TERMINATION OF CONTRACT.--

175 (a) At the end of a contract with a K-8 virtual school,
176 the department may choose not to renew the contract on any of
177 the following grounds:

178 1. Failure to participate in the state's performance
179 accountability system created under s. 1008.31, as required in
180 this section.

181 2. Failure to receive a school performance grade category
182 of "C" or better under the school grading system created under
183 s. 1008.34 for 2 school years in a 4-year period.

184 3. Failure to meet generally accepted standards of fiscal
185 management.

186 4. Violation of law.

187 5. Failure of the Legislature to fund the K-8 Virtual
188 School Program.

189 6. Other good cause shown.

190 (b) During the term of a contract, the department may
191 terminate the contract on any of the grounds listed in paragraph
192 (a).

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193 (c) If a contract is not renewed or is terminated, the K-8
 194 virtual school is responsible for all debts of the school.

195 (d) If a contract is not renewed or is terminated, a
 196 student who attended the school may apply to and shall be
 197 enrolled in another public school.

198 (10) RULES.--The State Board of Education shall adopt
 199 rules under ss. 120.536(1) and 120.54 as may be necessary to
 200 implement and administer this section.

201 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7097 PCB CCW 06-01 Postsecondary Career Education
SPONSOR(S): Community Colleges & Workforce Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 2326

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Community Colleges & Workforce Committee	7 Y, 0 N	Thomas	Ashworth
1) Education Appropriations Committee		Hamon <i>K.W.H.</i>	Hamon <i>K.W.H.</i>
2) Education Council			
3) _____			
4) _____			
5) _____			

SUMMARY ANALYSIS

The bill provides articulation mechanisms to improve the transition of students between secondary schools, career centers, and other postsecondary institutions, increases some financial aid to students, and creates a matching facilities grant program for school district career centers.

Articulation Provisions

- Requires that the statewide articulation agreement between secondary and postsecondary include credit earned through high school career and technical education majors and career academies.
- Requires an articulated career path be established by March 2007 for workforce education professions, including criminal justice, business, nursing, allied health and early childhood education. All of these career paths must include:
 - Credit earned in vocational, technical, or career certificate or diploma programs to an Associate in Science (AS) or Associate in Applied Science (AAS) degree program.
 - Credit earned in AS degree to credit in Bachelor of Science degree program.
 - Credit by public and private institutions.
 - Credit for experiential learning associated with minimum training requirements for employment.
- Requires the statewide articulation agreement to include admission of postsecondary vocational, technical, or career education certificate or diploma graduates from career centers.
- Requires the Office of Program Policy Analysis and Government Accountability to assess, evaluate, and report on all existing articulation agreements.
- Provides that a career center or a charter technical career center that offers a postsecondary adult vocational (PSAV) certificate program and has entered into an articulation agreement for the delivery of a related AAS degree program may use the designation "technical college."

Financial Aid Provisions

- Expands Florida Public Student Assistance Grant to postsecondary career certificate programs.
- Creates a GED Success Scholarship for GED completers to enter a career center or community college program that provides a career path to one of the top 15 occupations on targeted occupations lists.

The bill creates a **Career Centers Facilities Enhancement Challenge Grant Program** that provides for a match of private contribution to a school district career center to be eligible for a state match.

See FISCAL COMMENTS for details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7097b.EDAS.doc
DATE: 3/20/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - The State Board of Education is given rulemaking authority for the administration of the GED Success Scholarship Program.

Promote personal responsibility – The bill provides an opportunity for students who have received their GED to further their education through the GED Success Scholarship.

Empower families - The bill provides the opportunity for students who receive the GED scholarship to be able to obtain a job and realize economic self-sufficiency.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

General Educational Development (GED) Program

Florida in 2000-2001, had 29,606 dropouts from the educational system. Of those 3,883 (13.12%) went on to take the GED but 12,304 (41.56 %) did not further their education.¹ The fastest-growing, highest-paying jobs will require education beyond high school. The most common reasons that people take the GED test are employment and education. Of the 324,327 people in Southern Regional Education Board (SREB) states who took the GED test in 2000, 31 percent cited employment as the determining factor for taking it.²

Career Centers

Currently s. 1001.44, F.S., provides for district school boards and district school boards of contiguous districts to establish or acquire career centers after first obtaining approval from the Department of Education (DOE). Before 2004, the statutory term used for such centers was "technical centers." Career centers are often still referred to as technical centers. Career centers offer postsecondary adult vocational programs (PSAV) that result in a certificate for students that complete the program. Career centers are not degree issuing institutions. Florida currently has 47 such career centers.

Applied Associate in Science Degree

Associate in Applied Science (AAS) degrees are two year technical degrees indicating that a student has been trained in a particular field and is prepared for employment. These degrees are offered at degree issuing institutions, such as community colleges.

Articulation

The Commissioner of Education was directed by the passing of HB 769 (Chapter 2004-357, L.O.F.) to convene a Career Education Task Force (Task Force) to investigate issues related to workforce or career education. The Task Force chaired by the Lieutenant Governor, held several meetings to discuss workforce related issues. One of the recommendations of the Task Force was strengthening articulation at all levels.

Articulation was also a legislative priority in 2005. HB 6005 required the Department of Education (DOE) to conduct an "articulation audit". As a result of that requirement DOE convened an articulation workgroup composed of representatives from school districts and community colleges in April 2005. The purpose of this workgroup was to look at the issues, review the current status of articulation from PSAV certificates to associate degrees and make recommendations on possible statewide articulation agreements.

¹ Department of Education statistics 3/01/05

² SREB September 2002, Focus on the GED: Who Takes it and Why

The workgroup established a process to include the approval of the Articulation Coordination Committee (ACC). The ACC is appointed by and reports to the Commissioner of Education. The ACC exists to coordinate ways to help students move easily from institution to institution and from one level of education to the next. The workgroup has met on several occasions and recently made a presentation to the ACC to release the results of phase one of the project. This consisted of several recommended PSAV certificate to associate degree statewide articulation agreements. The recommendations should be presented to the State Board of Education in the next month or two for approval.

Statewide Targeted Occupation List and Regional Targeted Occupations List

The statewide list of targeted occupations is determined by the Florida Workforce Estimating Conference (WEC). Section 216.136(a)2., F.S., requires the WEC to review data concerning the local and regional demands for short-term and long-term employment in high-skills/high-wage program jobs, as well as other jobs. The WEC develops the official targeted occupations list based on industry and occupational employment projections and wages prepared by the Labor Market Statistics Office in the Florida Agency for Workforce Innovation. The WEC meets semi-annually and makes recommendations to Workforce Florida, Inc. for use as a guide for establishing Regional Targeted Occupation Lists, which are approved by Workforce Florida, Inc.³

Florida Public Student Assistance Grant Program

The Florida Public Student Assistance Grant provides need-based assistance to degree seeking students attending degree granting institutions. The grant is currently not available to school district career centers or charter technical career centers.

Effect of Proposed Changes

Technical College

The bill relating to postsecondary education, authorizes district school boards that have established career centers as part of the district school system to enter into an articulation agreement for the delivery of specified associate in applied science (AAS) degree programs.

The bill authorizes career centers and charter technical career centers that offer a postsecondary adult vocational (PSAV) program designed to articulate into an associate in applied science degree and enters into an articulation agreement for the delivery of such a degree program to use the designation "technical college".

The bill defines a PSAV program as a job preparatory program, excluding continuing workforce education, through which a student receives a vocational certificate upon completion of instruction.

Statewide Articulation

The bill requires that State Board of Education statewide articulation agreements that govern articulation between secondary and postsecondary education include credit earned through high school career and technical education majors and career academies and admission of postsecondary vocational, technical, or career education certificate or diploma graduates from school district career centers or charter technical career centers.

The bill requires the State Board of Education (SBE) to establish an articulated career path for specific workforce education professions including, but not limited to, the program areas of criminal justice, business, nursing, allied health and early childhood education by March 1, 2007. The career path must provide for the articulation of:

- Credit earned in vocational, technical, or career certificate or diploma programs to associate in science degrees or associate in applied science degrees.

³ See <http://www.labormarketinfo.com/wec/index.htm>

- Credit earned in associate in science degree programs to credit in baccalaureate degree programs.
- Credit awarded by public and private institutions.
- Credit for experiential learning associated with minimum training requirements for employment.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to collect, review, and conduct an assessment and evaluation of all existing statewide articulation agreements and to report on the results by December 2006.

GED Success Scholarship Program

The bill creates the GED Success Scholarship Program to encourage students who successfully complete a GED program to attend a program offered by an accredited public or private technical or career center or a community college which has been identified by the Department of Education to have a program that provides a career path to one of the top 15 occupations in number of annual openings as listed on the Agency for Workforce Innovation's Florida Statewide Targeted Occupations List or on a regional targeted occupations list at the time of the student's initial enrollment.

DOE is authorized to issue the scholarship to a student who meets all of the following requirements:

- Florida resident for tuition purposes
- Completed all sections of the GED tests
- Enrolled in a program identified by DOE as a program
- Submitted an application for scholarship to the DOE

Subject to the General Appropriations Act, DOE must allocate each year to eligible students one \$500 scholarship per student. The scholarship must be transmitted to the director or president of the eligible institutions.

The State Board of Education is authorized to adopt rules for the administration of the scholarship program.

Florida Public Student Assistance Grant Program

The bill expands the need-based Florida Public Student Assistance Grant to postsecondary career certificate programs. The grant will be available to students attending school district career centers or charter technical career centers.

School District Career Center Facility Enhancement Challenge Grant

The bill establishes the School District Career Center Facility Enhancement Challenge Grant Program for the purpose of assisting career centers in building high priority instructional and capital facilities. For the school district to be eligible for a match by a state appropriation, one-third of the total cost of a facility construction project must be raised by the district, through its direct-support organization, from private sources. The state match, subject to the General Appropriations Act, may equal the amount raised up to the cost of the project. The final one-third of funds must be provided from the school district's local capital funds.

If the state match does not equal one-third of the cost, the district must renegotiate the terms of the private contributions with the donors. If the project is terminated, the private donations, plus interest, reverts to the direct support organization, and may be remitted to the donor at the donor's discretion.

After the completion of a project, one-third of any unexpended funds must be reserved for future facility construction projects by the career center that originally received the private contribution. One-third of the unexpended funds must be returned to the General Revenue Fund and one-third must be returned to the school district.

C. SECTION DIRECTORY:

Section 1. Amends s. 1001.44, F.S.; authorizing an articulation agreement for delivery of associate in applied science degree programs by career centers; providing requirements for use of the designation "technical college"; providing a definition.

Section 2. Amends s. 1002.34, F.S.; providing for a charter technical career center to use the designation "charter technical college"; providing a definition.

Section 3. Amends s. 1007.22, F.S.; revising provisions relating to establishment of interinstitutional mechanisms by public postsecondary educational institutions.

Section 4. Amends s. 1007.23, F.S.; revising components of the statewide articulation agreement; revising terminology; requiring the State Board of Education to establish articulated career paths for specific professions; requiring career paths to provide credit for certain programs and experiential learning.

Section 5. Amends s. 1009.50, F.S.; authorizing certain students in postsecondary career certificate programs to receive Florida Public Student Assistance Grants.

Section 6. Creates s. 1009.521, F.S.; creating the GED Success Scholarship Program; providing for administration; providing for the award of scholarships from appropriated funds; providing eligibility criteria; providing for transmittal of funds to eligible institutions; providing for reporting; providing for rulemaking.

Section 7. Creates s. 1011.802, F.S.; establishing the School District Career Center Facility Enhancement Challenge Grant Program; authorizing a school district direct-support organization to solicit funds and establish a separate career center capital facilities matching account for private contributions for instructional facility construction projects; providing for match by state appropriations; providing for a portion of the cost of a facility construction project to be provided from a school district's local capital funds; providing State Board of Education requirements relating to capital outlay budget request for such projects; providing for reversion of funds.

Section 8. Creates new language; requiring the Office of Program Policy Analysis and Government Accountability to assess articulation agreements and identify career center programs that may articulate to certain degree programs; requiring recommendations.

Section 9. Providing an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See FISCAL COMMENTS

2. Expenditures: See FISCAL COMMENTS

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Not applicable.

D. FISCAL COMMENTS:

Florida Public Student Assistance Grant Program (FSAG-Public)

The House Proposed General Appropriations Bill (House Bill 5001, Specific Appropriation 84) for fiscal year 2006-2007 provides \$95.3 million for the FSAG-Public. The Department of Education projects that the expansion of eligibility could increase the number of students by 5,233. The department estimates an increased cost of \$3.7 million to \$7.4 million to cover the expansion of eligibility.

GED Success Scholarship Program

The GED Success Scholarship is subject to the General Appropriations Act. The number of students who would be eligible for the \$500 scholarship is not known.

School District Career Center Facility Enhancement Challenge Grant

For the school district to be eligible for a match by a state appropriation, one-third of the total cost of a facility construction project must be raised by the district, through its direct-support organization, from private sources. The state match, subject to the General Appropriations Act, may equal the amount raised up to the cost of the project. The final one-third of funds must be provided from the school district's local capital funds.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds.

2. Other: None

B. RULE-MAKING AUTHORITY:

The State Board of Education is given rulemaking authority for the administration of the GED Success Scholarship Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Community College and Workforce Committee passed two amendments. The amendments made the following changes.

- Required that the articulation career path for workforce education professions shall include the program area of early childhood education.
- Removed of the awarding of a Florida high school diploma for the requirements of the GED Success Scholarship.

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1 A bill to be entitled

2 An act relating to postsecondary education; amending s.

3 1001.44, F.S.; authorizing an articulation agreement for

4 delivery of associate in applied science degree programs

5 by career centers; providing requirements for use of the

6 designation "technical college"; providing a definition;

7 amending s. 1002.34, F.S.; providing for a charter

8 technical career center to use the designation "technical

9 college"; providing a definition; amending s. 1007.22,

10 F.S.; revising provisions relating to establishment of

11 interinstitutional mechanisms by public postsecondary

12 educational institutions; amending s. 1007.23, F.S.;

13 revising components of the statewide articulation

14 agreement; revising terminology; requiring the State Board

15 of Education to establish articulated career paths for

16 specific professions; requiring career paths to provide

17 credit for certain programs and experiential learning;

18 amending s. 1009.50, F.S.; authorizing certain students in

19 postsecondary career certificate programs to receive

20 Florida public student assistance grants; creating s.

21 1009.521, F.S.; creating the GED Success Scholarship

22 Program; providing for administration; providing for the

23 award of scholarships from appropriated funds; providing

24 eligibility criteria; providing for transmittal of funds

25 to eligible institutions; providing for reporting;

26 providing for rulemaking; creating s. 1011.802, F.S.;

27 establishing the School District Career Center Facility

28 Enhancement Challenge Grant Program; authorizing a school

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29 district direct-support organization to solicit funds and
30 establish a separate career center capital facilities
31 matching account for private contributions for
32 instructional facility construction projects; providing
33 for match by state appropriations; providing for a portion
34 of the cost of a facility construction project to be
35 provided from a school district's local capital funds;
36 providing State Board of Education requirements relating
37 to capital outlay budget requests for such projects;
38 providing for reversion of funds; requiring the Office of
39 Program Policy Analysis and Government Accountability to
40 assess articulation agreements and identify career center
41 programs that may articulate to certain degree programs;
42 requiring recommendations; providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Subsection (4) is added to section 1001.44,
47 Florida Statutes, to read:

48 1001.44 Career centers.--

49 (4) DISTRICT SCHOOL BOARD CAREER CENTER PROGRAM
50 DELIVERY.--

51 (a) A district school board with an established career
52 center as part of the district school system may enter into an
53 articulation agreement for the delivery of specified associate
54 in applied science degree programs.

55 (b) A career center that offers a postsecondary adult
56 vocational program designed to articulate into an associate in

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applied science degree program and enters into an articulation agreement for the delivery of such an associate in applied science degree program may use the designation "technical college."

(c) For purposes of this subsection, "postsecondary adult vocational program" is a job preparatory program, excluding continuing workforce education, through which a student receives a vocational certificate upon completion of instruction.

Section 2. Subsection (20) is added to section 1002.34, Florida Statutes, to read:

1002.34 Charter technical career centers.--

(20) DESIGNATION AS A TECHNICAL COLLEGE.--A charter technical career center that offers a postsecondary adult vocational program designed to articulate into an associate in applied science degree program and enters into an articulation agreement for the delivery of such an associate in applied science degree program may use the designation "technical college." For purposes of this subsection, "postsecondary adult vocational program" is a job preparatory program, excluding continuing workforce education, through which a student receives a vocational certificate upon completion of instruction.

Section 3. Subsection (3) of section 1007.22, Florida Statutes, is amended to read:

1007.22 Articulation; postsecondary institution coordination and collaboration.--

(3) Public postsecondary educational institutions serving the same students in a geographic and service area are encouraged to establish appropriate interinstitutional

85 mechanisms to achieve cooperative planning and delivery of
86 academic programs and related services, share a high-cost
87 instructional facility and equipment, coordinate credit and
88 noncredit outreach activities, have access to each other's
89 library and media holdings and services, and provide cooperative
90 campus activities and consultative relationships for the
91 discussion and resolution of interinstitutional issues and
92 problems which discourage student access or transfer.

93 Section 4. Subsections (1) and (3) of section 1007.23,
94 Florida Statutes, are amended to read:

95 1007.23 Statewide articulation agreement.--

96 (1) The State Board of Education shall establish in rule a
97 statewide articulation agreement that governs:

98 (a) Articulation between secondary and postsecondary
99 education, including credit earned through high school career
100 and technical education majors and career academies;

101 (b) Admission of associate in arts degree graduates from
102 community colleges and state universities;

103 (c) Admission of applied technology diploma program
104 graduates from community colleges or career centers;

105 (d) Admission of associate in science degree and associate
106 in applied science degree graduates from community colleges;

107 (e) The use of acceleration mechanisms, including
108 nationally standardized examinations through which students may
109 earn credit;

110 (f) General education requirements and statewide course
111 numbers as provided for in ss. 1007.24 and 1007.25; ~~and~~

112 (g) Articulation among programs in nursing; and-

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(h) Admission of postsecondary vocational, technical, or career certificate or diploma graduates from school district career centers or charter technical career centers.

(3) The articulation agreement must guarantee the statewide articulation of appropriate workforce education development programs and courses between school districts and community colleges and specifically provide that every applied technology diploma graduate must be granted the same amount of credit upon admission to an associate in science degree or associate in applied science degree program unless it is a limited access program. Preference for admission must be given to graduates who are residents of Florida. By March 1, 2007, the State Board of Education shall establish an articulated career path for specific workforce education professions, including, but not limited to, the program areas of criminal justice, business, nursing, allied health, and early childhood education. The career paths shall provide for the articulation of:

(a) Credit earned in vocational, technical, or career certificate or diploma programs to associate in science degrees or associate in applied science degrees.

(b) Credit earned in associate in science degree programs to credit in baccalaureate degree programs.

(c) Credit awarded by public and private institutions.

(d) Credit for experiential learning associated with minimum training requirements for employment.

Section 5. Paragraph (a) of subsection (2) of section 1009.50, Florida Statutes, is amended to read:

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1009.50 Florida Public Student Assistance Grant Program;
eligibility for grants.--

(2)(a) State student assistance grants through the program may be made only to degree-seeking students who enroll in at least 6 semester hours, or the equivalent per term, or students who enroll in a postsecondary career certificate program of at least 450 clock hours, and who meet the general requirements for student eligibility as provided in s. 1009.40, except as otherwise provided in this section. The grants shall be awarded annually for the amount of demonstrated unmet need for the cost of education and may not exceed an amount equal to the average prior academic year cost of tuition fees and other registration fees for 30 credit hours at state universities or such other amount as specified in the General Appropriations Act, to any recipient. A demonstrated unmet need of less than \$200 shall render the applicant ineligible for a state student assistance grant. Recipients of the grants must have been accepted at a state university, ~~or~~ community college, school district career center, or charter technical career center authorized by Florida law. A student is eligible for the award for 110 percent of the number of credit hours required to complete the program in which enrolled, except as otherwise provided in s. 1009.40(3).

Section 6. Section 1009.521, Florida Statutes, is created to read:

1009.521 GED Success Scholarship Program.--

(1) The GED Success Scholarship Program is created to establish a scholarship program to encourage students who successfully complete a GED program to attend a program offered

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by an accredited public or private technical or career center or a community college program identified by the Department of Education as a program that provides a career path to one of the top 15 occupations in number of annual openings as listed on the Agency for Workforce Innovation's Florida Statewide Targeted Occupations List or on a regional targeted occupations list at the time of the student's initial enrollment.

(2) The scholarship program shall be administered by the department pursuant to the requirements of this section and rules of the State Board of Education.

(3) For each year in which funds are appropriated in the General Appropriations Act, the department shall allocate funds to eligible students in the amount of one \$500 scholarship per eligible student. The scholarships shall be awarded by the department on a first-come, first-served basis to eligible recipients until all funds specifically designated for the GED Success Scholarships for that fiscal year have been allocated.

(4) A student who meets all of the following requirements is eligible to receive a scholarship pursuant to this section:

(a) The student is a Florida resident for tuition purposes pursuant to s. 1009.21.

(b) The student has successfully completed all sections of the GED tests.

(c) The student has enrolled in a program identified by the department as a program in an accredited public or private technical or career center or a community college that provides a career path to one of the top 15 occupations in number of annual openings as listed on the Agency for Workforce

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Innovation's Florida Statewide Targeted Occupations List or on a regional targeted occupations list at the time of the student's initial enrollment.

(d) The student has submitted an application for the scholarship to the department, in the manner prescribed by the department, after December 1 for the following school year and before June 1 of the year in which funding is requested.

(5) (a) Payment of GED Success Scholarships shall be transmitted to the director or president of the eligible institution, or his or her representative, in advance of the registration period. Institutions shall notify students of the amount of their awards.

(b) Each participating institution shall report to the department by the established date the eligible students to whom scholarship moneys were disbursed each academic term. Each institution shall also report to the department necessary demographic and eligibility data for such students.

(c) Each accredited private institution that receives moneys through the GED Success Scholarship Program shall prepare a biennial report that includes a financial audit, conducted by an independent certified public accountant, of the institution's administration of the program and a complete accounting of the moneys allocated to the institution for the program. The report shall be submitted to the department no later than March 1 of every even-numbered year.

(6) The State Board of Education may adopt rules pursuant to ss. 120.536(1) and 120.54 relating to the administration of the scholarship program.

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Section 7. Section 1011.802, Florida Statutes, is created to read:

1011.802 School District Career Center Facility Enhancement Challenge Grant Program.--

(1) There is established the School District Career Center Facility Enhancement Challenge Grant Program for the purpose of assisting career centers in building high priority instructional capital facilities consistent with s. 1001.44, including common areas connecting such facilities. The direct-support organizations that serve the school districts may solicit gifts from private sources which are eligible for state matching funds for capital facilities. For purposes of this section, private sources of funds shall not include any federal, state, or local government funds that a school district may receive.

(2) The School District Career Center Facility Enhancement Challenge Grant Program shall provide funds to match private contributions for the development of high priority instructional capital facilities, including common areas connecting such facilities, within the career centers.

(3) Within the direct-support organization of each school district, a separate career center capital facilities matching account must be established for the purpose of providing matching funds from the direct-support organization's unrestricted donations or other private contributions for the development of high priority instructional capital facilities, including common areas connecting such facilities. The Legislature may appropriate funds for distribution to a school district after matching funds are certified by the direct-

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252 support organization and school district to the Department of
253 Education. The Public Education Capital Outlay and Debt Service
254 Trust Fund shall not be used as the source of the state match
255 for private contributions.

256 (4) A project may not be initiated unless all private
257 funds for planning, construction, and equipping the facility
258 have been received and deposited in the direct-support
259 organization's matching account and the state's share for the
260 minimum amount of funds needed to begin the project has been
261 appropriated by the Legislature. The Legislature may appropriate
262 the state's matching funds in one or more fiscal years for the
263 planning, construction, and equipping of an eligible facility.
264 However, these requirements shall not preclude the school
265 district or direct-support organization from expending available
266 funds from private sources to develop a prospectus, including
267 preliminary architectural schematics or models, for use in its
268 efforts to raise private funds for a facility. Additionally, any
269 private sources of funds expended for this purpose are eligible
270 for state matching funds if the project is awarded grant funds
271 under this section.

272 (5) To be eligible to participate in the School District
273 Career Center Facility Enhancement Challenge Grant Program, a
274 school district, through its direct-support organization, shall
275 raise contributions from private sources equal to one-third of
276 the total cost of a facility construction project. After raising
277 such contributions, the school district shall be eligible for a
278 match by a state appropriation equal to the amount raised for a
279 facility construction project up to one-third of the cost of the

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280 | project, subject to the General Appropriations Act. Another one-
 281 | third of the total cost must be provided from the school
 282 | district's local capital funds.

283 | (6) If the state's share of the required match is
 284 | insufficient to meet the requirements of subsection (5), the
 285 | school district shall renegotiate the terms of the contribution
 286 | with the donors. If the project is terminated, each private
 287 | donation, plus accrued interest, shall revert to the direct-
 288 | support organization for remittance to the donor at the donor's
 289 | discretion.

290 | (7) By September 1 of each year, the State Board of
 291 | Education shall transmit to the Legislature, in the capital
 292 | outlay budget request, a list of projects that meet all
 293 | eligibility requirements to participate in the School District
 294 | Career Center Facility Enhancement Challenge Grant Program and a
 295 | budget request that includes the recommended schedule necessary
 296 | to complete each project.

297 | (8) In order for a project to be eligible under this
 298 | program, it must be survey-recommended under the provisions of
 299 | s. 1013.31, included in the school district's 5-year capital
 300 | improvement plan, and receive prior approval from the State
 301 | Board of Education.

302 | (9) Any project funds that are unexpended after a project
 303 | is completed shall revert to the school district direct-support
 304 | organization's career center capital facilities matching
 305 | account. One-third of such unexpended funds shall be reserved
 306 | for the school district career center that originally received
 307 | the private contribution for the purpose of providing private

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matching funds for future facility construction projects as provided in this section. One-third of such unexpended funds shall be returned to the General Revenue Fund. One-third of such unexpended funds shall be returned to the school district.

(10) The surveys, architectural plans, facility, and equipment shall be the property of the participating school district.

Section 8. (1) As part of determining the appropriate courses and programs for statewide articulation, the Office of Program Policy Analysis and Government Accountability shall collect, review, and conduct an assessment of all existing statewide articulation agreements and all existing articulation agreements between school district career centers or charter technical career centers and community colleges by September 30, 2006.

(2) The Office of Program Policy Analysis and Government Accountability shall use the information compiled pursuant to subsection (1) to evaluate the effectiveness of local and statewide interinstitutional articulation agreements and to identify other postsecondary technical or career programs within a school district career center or charter technical career center that may articulate to an associate in science degree program or an associate in applied science degree program on an individual course or block basis for statewide interinstitutional articulation agreements. By December 31, 2006, the Office of Program Policy Analysis and Government Accountability shall submit a report to the President of the Senate and the Speaker of the House of Representatives.

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336 | Section 9. This act shall take effect July 1, 2006.

HB 7103

BILL #: HB 7103 PCB CI 06-03 Charter Schools
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 2424

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill requires the Department of Education (DOE) to staff the Charter School Review Panel and to create a standard charter format and charter renewal format to be used as guidelines by charter school sponsors.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Legislature authorized charter schools in 1996. Since their introduction in 1996, the number of charter schools operating in Florida has grown from 5 to 333.¹ In 1996, the 5 schools served 574 students and in 2005-06 the 333 schools currently serve approximately 92,158 students.² The legislative principles guiding Florida charter schools are to meet high standards of student achievement while increasing parental choice within the public school system, align responsibility with accountability, and provide parents with sufficient information relating to their child's reading level and learning gains.³

As provided in s. 1002.33, F.S., charter schools are nonsectarian public schools of choice that operate under a performance contract (a charter) with a public sponsor. Under current law, district school boards are the only entities that can sponsor charters, although upon appeal the State Board of Education may decide that the district school board must approve or deny an application.⁴ Additionally, four state universities are currently authorized to grant charters and sponsor development research (laboratory) schools created under 1002.32, F.S.⁵ The charter is an agreement signed by the governing body of the school and the sponsor that addresses all major issues involving the operation of the charter school including, but not limited to, the school's mission, students served, curriculum, methods of student academic assessment, method for conflict resolution, financial and administrative management, and the term of the charter. Charter schools are often free from many state and local regulations and mandates, but are held accountable to the sponsor that grants their application and to the parents who choose them for the academic and financial performance of the school and its students.

Effects of Proposed Changes

Purpose of Charter Schools

The statutory purpose of charter schools is to improve student learning and academic achievement, increase learning opportunities of all students, create new professional opportunities for teachers, encourage the use of innovative learning methods, and measure learning outcomes.⁶ Currently, charter schools may fulfill the following purposes: create innovative measurement tools, provide rigorous competition within the public school district, expand the capacity of the public school system, and mitigate the educational impact created by the development of new residential dwelling units.

¹ www.floridaschoolchoice.org

² *Id.*

³ FLA. STAT. ch. 1002.33(2)

⁴ FLA. STAT. ch. 1002.33(5),(6)

⁵ S. 1002.32(2), F.S., provides that for the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school.

⁶ s. 1002.33(2)(b), F.S.

As amended, the bill requires charter schools to improve student learning and academic achievement, increase learning opportunities for all students with emphasis on low-performing students, encourage the use of innovative learning methods, and to require the measurement of learning outcomes. Also, it revises the list of purposes that a charter school may fulfill to include the option of creating new professional opportunities for teachers.

Application for Charter Status

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.⁷ Alternatively, a public school that has been in operation for at least two years may convert to a charter school pursuant to an application by the district school board, the principal, teachers, parents, and/or the school advisory council.⁸ The bill clarifies that a public school-within-a-school that is designated as a school by the district school board may also submit an application to convert to charter status.

Under current law, district school boards must notify conversion charter school applicants that their application has been denied within 30 days of the school board meeting denying their application. On the other hand, district school boards only have 10 days after the meeting to notify charter school applicants that their application has been denied. Thus, the bill makes consistent the requirement that district school boards notify both conversion charter school applicants and charter school applicants within 10 days of the meeting denying their application.

Sponsor Duties

Currently, only a district school board may sponsor a charter school in the county where the district school board has jurisdiction.⁹ However, a state university may grant a charter to a lab school in which case the university is considered to be the charter lab school's sponsor.¹⁰ Sponsor duties include, but are not limited to, monitoring and reviewing the charter school's progress towards the established goals, monitoring the charter school's revenues and expenditures, and ensuring that the charter school participates in the state's education accountability system.¹¹

The bill provides that the sponsor's policies do not apply to charters schools unless they are mutually agreed to by the sponsor and the charter school. Additionally, sponsors must provide charter schools with reasonable and specific justification before imposing additional reporting requirements on charter schools. These provisions provide additional measures to ensure that sponsors do not place unnecessary requirements on charter schools.

Application Process and Review

Section 1002.33(6), F.S., provides for the application process and review of a charter school. A person or entity wishing to open a charter school prepares and submits an application to be considered by a district school board on or before September 1 of each calendar year. Applications are required to be approved or denied by majority vote within 60 calendar days after the application is received, unless the applicant and the district school board mutually agree to postpone the vote to a specific date. If the district school board fails to act on the application then the applicant may appeal to the bill. If the district school board denies an application, the board must notify the applicant in writing and cite specific reasons based upon good cause for denying the application.

⁷ s. 1002.33(3), F.S.

⁸ *Id.*

⁹ s. 1002.33(5), F.S.

¹⁰ *Id.*

¹¹ s. 1002.33(5)(b), F.S.

Current law provides charter school applicants with procedures for appeal to the Charter School Appeal Commission if the charter has been denied, not renewed, or terminated or if mediation has failed to resolve disputes over contract negotiations.¹² The Charter School Appeal Commission may receive and review documents forwarded to the SBE, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. Decisions by the Charter School Appeal Commission are not subject to the provisions of the Administrative Procedures Act. The SBE must consider the commissioner's recommendation; however, the SBE is not bound by the recommendation.

Subsequent to the approval of the charter school application, the DOE is required to provide mediation services for any dispute relating to the charter's provisions and any dispute relating to the approved charter, except for disputes relating to charter school application denials. A dispute, except a dispute pertaining to charter school application denial, may be appealed to an administrative law judge if the Commissioner of Education determines that the dispute cannot be settled through mediation.¹³

The bill provides that beginning with the 2007-2008 school year, the charter school application deadline is changed from September 1 to August 1. Also, in instances where the district school board denies an application, the bill requires the board to provide the applicant and the DOE with supporting documentation stating the specific reason for the denial of the charter application.

The bill clarifies that the SBE's decision is final action subject to judicial review in the district court of appeal and that an administrative law judge may not rule on issues relating to the denial of an application or on issues relating to the termination or nonrenewal of a charter. Also, the bill removes the provision that allows disputes over contract negotiations that have not been resolved through mediation to go before the Charter School Appeal Commission.

The bill directs the DOE to offer training and technical assistance to charter school applicants on issues related to the financial and business side of charter school operation. According to OPPAGA, charter schools face considerable challenges related to start-up and facilities related costs that put charter schools at risk for chronic financial deficits. More specifically, new charter schools may underestimate the high start-up and facilities related costs associated with opening a charter school and are unable to obtain sufficient funds to cover these costs associated with opening.¹⁴ Thus, the bill requires that the assistance offered by the DOE must address estimating start-up costs, projecting enrollment, and identifying the types and amounts of state and federal financial assistance the charter school will be eligible to receive.

Charter Agreement

A charter is a written contractual agreement between the sponsor and the charter school's governing board that sets forth the terms and conditions for the operation of a charter school. The initial term of a charter may be 3, 4, or 5 years and is to be renewed every 5 years if the criteria have been successfully accomplished and if none of the grounds for nonrenewal are documented. For easier access to long-term financial resources for facility construction, current law allows a charter school operated by a municipality or other public entity or a charter lab school to be eligible for up to a 15-year charter. However, a charter school that is operated by a private, not-for-profit, s. 501(c)(3) status corporation is only eligible for up to a 10-year charter.

As amended, the bill requires that initial proposed contract be provided to the charter school within 60 days and the applicant and the sponsor then have 75 days thereafter to negotiate the final terms of the contract. It requires the proposed charter to be provided to the charter school at least 7 days prior to the vote of the sponsor. This gives the charter school an opportunity to review the proposed charter

¹² s. 1002.33(6), F.S.

¹³ *Id.*

¹⁴ OPPAGA Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 7.

and to ensure that all provisions of the agreement have been codified in the charter. Also, the bill changes the initial charter term to 4 or 5 years and revises the provision so that a charter school operated by a private, not-for-profit, s. 501(c)(3) status corporation is also eligible for up to a 15-year charter.

The bill provides that a charter is to be automatically renewed if the criteria have been successfully accomplished and if none of the grounds for nonrenewal were documented. Additionally, the bill provides that the 15-year charter renewal shall be granted if the school has received a grade of "A" or "B" in 3 of the past 4 years and is not in a state of financial emergency or a deficit financial position.

Financial Oversight

Lack of expertise in education budgeting and finance and with government accounting conventions are additional challenges facing charter schools. Identifying and assisting charter schools with deteriorating financial conditions is challenging without complete, accurate, and timely financial data.¹⁵ According to an OPPAGA report, it is important for the DOE to take a more proactive approach with charter schools in their first years of operation and to have more effective methods to identify and assist charter schools either at risk of financial difficulty or in need of assistance to overcome financial deficit.¹⁶ Furthermore, in the November 1, 2004-October 31, 2005 Florida Auditor General Annual Report¹⁷, the Auditor General determined that the laws governing charter schools do not contain comparable reporting requirements for charter schools operating with deteriorating financial conditions.¹⁸ Therefore, the Auditor General recommended that, at a minimum, the auditor notify the governing board of the charter school of the deficit financial position and that those charter schools should be required to file a detailed financial recovery plan with the sponsoring district school board.¹⁹

The bill addresses the OPPAGA findings and the Auditor General recommendations by detailing procedures the charter school, the sponsor, and the charter school governing board must follow when a state of financial emergency exists. The charter is required to specify that the auditors of a charter school whose internal audit or an annual financial audit reveals a state of financial emergency or deficit financial position must notify the charter governing board, the sponsor, and the DOE.²⁰ The auditor is also required to report, within 7 working days, such findings in the form of an exit interview to the principal or principal administrator of the charter school and the chair of the governing board. Charter schools that are found to be in a state of financial emergency must file a detailed financial recovery plan with the sponsor and the DOE is required to establish guidelines for the development of such plans. The governing board is also required to maintain oversight of the charter school by ensuring an annual audit report is conducted, reviewing and approving the report and monitoring a financial recovery plan, if implemented.

¹⁵ OPPAGA Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 1.

¹⁶ *Id.* at 11. OPPAGA recommended clarifying the Department of Education's role to include the following responsibilities: ensuring that technical assistance is available to charter schools for developing business plans and estimating costs and income is available; ensuring that training and technical assistance is provided for administrators in planning, budget, management, and financial reporting; developing a monitoring system that includes a comprehensive list of financial indicators to be used for the early identification of charter schools at greatest risk for financial difficulty; ensuring that training and technical assistance is provided to charter schools in deteriorating financial conditions; annually reporting schools identified as being at risk for financial difficulties and the actions that have been taken to assist the school; and developing a modified annual financial report for charter schools with additional guidelines for expenditure reporting.

¹⁷ The Auditor General Annual Report Numbers 2005-054 and 2006-034, *Report on Significant Findings and Financial Trends in Charter Schools and Charter Technical Career Center Audit Reports Prepared by Independent CPAs*, November 2004 – October 2005.

¹⁸ FLA. STAT. ch. 219.39(5), requires the auditor of a local governmental entity or district school board to notify each member of the governing board for which deteriorating financial conditions exist that may result in a state of financial emergency as defined by Section 218.503, Florida Statutes.

¹⁹ The Auditor General Annual Report Numbers 2005-054 and 2006-034; OPPAGA at 12.

²⁰ See s. 218.503, F.S., Determination of financial emergency

Nonrenewal or Termination of Charter

Current law provides that sponsors may choose not to renew or terminate the charter if the charter school fails to participate in the state's education accountability system, fails to meet generally accepted standards of fiscal management, violates a state law, or if other good cause is shown.²¹ Sponsors are required to notify the governing body of the school of the proposed action at least 90 days prior to the nonrenewal or termination. The charter school may request, within 14 days after receiving the notice, an informal hearing before the sponsor. The informal hearing must be conducted within 30 days by the sponsor. The charter school's governing board may appeal the sponsor's decision to not renew or terminate within 14 days after receiving the sponsor's decision.

The PCB specifies that a sponsor may choose not to renew, terminate or immediately terminate a charter based on the sponsor's determination that the health, safety, and welfare of the students is threatened rather than for the current law provision of good cause shown. As amended, it also provides the sponsor with the authority to not renew or terminate a charter for material breach or repeated violations of the term of the charter. In the event of nonrenewal, termination, or immediate termination, the bill revises the notification requirements and appeals procedure so that they are consistent with the procedures that a sponsor and an applicant must follow when an application for charter status has been denied.²²

Currently, when a charter is not renewed or is terminated, the school is dissolved and any unencumbered public funds, except capital outlay funds, from the charter school revert to the district school board. The unencumbered capital outlay funds revert to the DOE for redistribution among eligible schools. The bill revises this provision so that the unencumbered public funds, except capital outlay funds and federal charter school program grant funds, revert to the sponsor when a charter is not renewed or is terminated and the school is dissolved. Likewise, the unencumbered federal charter school program grant funds would revert to the DOE for redistribution among eligible schools.

Charter School Requirements

Charter school requirements include, but are not limited to, the following: charter schools must be nonsectarian in their programs, admission policies, employment practices, and operations; charter schools must be accountable to their sponsors for performance; charter schools must meet all applicable state and local health, safety, and civil rights requirements; charter schools must provide for an annual financial audit; charter schools must maintain all financial records which constitute their accounting system; charter schools' governing boards must annually adopt and maintain an operating budget, exercise continuing oversight on charter school operations, and annually report progress to their sponsor; and charter schools must provide instruction for at least the number of days required by law.²³

The bill expands the duties of governing boards relating to academic oversight for charter schools that receive a grade of D or F. The director and a representative of the governing board of a charter school that has received a school grade of D are required to appear before the sponsor at least once a year to present information on each contract component having noted deficiencies. The sponsor is also required to communicate at the meeting the services provided to the school to help address the noted deficiencies. The governing body of a charter school that receive a grade of D for 2 consecutive years or a grade of F is required to submit to the sponsor a school improvement plan to raise student achievement. The governing body is required to appear before the sponsor at least once a year to present information on the corrective strategies that are being implement pursuant to the school improvement plan. The bill establishes requirements for the school improvement plan and makes

²¹ s. 1002.33(8), F.S.

²² see Application for Charter Status on p. 3

²³ S. 1002.33(9), F.S.

available corrective actions that charter school governing boards must follow if there is not an improvement in student performance.

The bill requires the DOE to offer technical assistance and training to the governing board and establish guidelines for developing, submitting, and approving school improvement plans. Also, the DOE is required to develop a uniform, on-line annual accountability report for charter schools to complete. The governing board of the charter school is required to use this standard form to report its annual progress to the Commissioner of Education.

Funding of Charter School Student Enrollment

Currently, students enrolled in a charter school are funded in the same way as all other public school students in the school district. Thus, each charter school must report its student enrollment to the school district and the school district must include each charter school's student enrollment in its report of student enrollment that is submitted to the state in October and February of each school year.²⁴ Current law provides that district school boards are required to make every effort to ensure that charter schools receive timely and efficient reimbursement.²⁵

The bill requires the district school boards to make timely and efficient payments and reimbursements to charter schools and allows the Commissioner of Education to withhold lottery funds if districts repeatedly fail to do so. Further, if a warrant for payment is not issued within 10 working days, rather than the current law requirement of 30 working days, after receipt of funding by the district school board then the district school board is required to pay the charter school the amount of the scheduled disbursement and interest at a rate of 5% per month. This changes the interest rate from 1% to 5% per month. Also, the interest rate is calculated on a daily basis on the unpaid balance from the expiration of the 10-day period until the warrant is issued. Increasing the interest rate may influence school district to make timely disbursements.

The bill provides the SBE authority to impose a fine, not to exceed \$10,000, or withhold lottery funds for districts that violate the procedural requirements for charter school application, termination, and non-renewal appeals regardless of whether the violation effects the fairness of the appeal process or the correctness of the action taken by the district. The bill provides for procedural requirements for the imposition of such penalties. However, the SBE is required to provide the district with notice of the proposed fine and the opportunity to be heard at a subsequent meeting of the SBE prior to the imposition of the fine or withholding of lottery funds.

Facilities

The bill clarifies that a start-up charter school, not the current law requirement of a charter school, is required to utilize facilities that comply with the Florida Building Code²⁶ except for the State Requirements for Educational Facilities (SREF). The bill requires conversion charter schools to comply with SREF if the district and the charter school have entered into a mutual management plan with sufficient funding from the district to comply with SREF.

Current law provides that any facility or a portion of the facility that is used to house an approved charter school is exempt from ad valorem taxes pursuant to s. 196.1983.²⁷ The bill specifies that the following facilities may provide space to charter schools within their facilities under their preexisting zoning and land use designations: libraries, community service facilities, museums, performing arts facilities, theatres, cinemas, churches, community colleges, colleges, and universities.

²⁴ s. 1002.33(17), F.S.

²⁵ s. 1002.33(17)(d), F.S.

²⁶ Pursuant to chapter 533.

²⁷ s. 1002.33(18)(c), F.S.

Current law provides that charter school facilities are exempt from assessments of fees for building permits and licenses and impact fees or service availability fees.²⁸ The bill provides that charter school facilities are also exempt from payment of fees for occupational licenses.

Any facility or property of the district school board that becomes available because it is surplus, marked for disposal, or otherwise unused is made available to the charter school on the same basis as it is made available to other public schools in the district.²⁹ The bill provides that the charter school, not the charter organizer, is required to agree to reasonable maintenance provisions that ensure that the facility is maintained in a manner similar to district school board standards.

Services

Currently, a school district provides the following administrative and educational services to charter schools: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services.³⁰ Administrative fees for the above services that may be charged by the district to a charter school are 5% of the available per student FEFP funds.

The bill provides for exceptional student education evaluation services in addition to the exceptional student education administration services provided for in current law. It also provides for food service eligibility and reporting duties so that the school lunch services under the federal lunch program are provided by the school district to the charter school at the school's request. As amended, the bill clarifies that sponsors are required to provide charter schools the performance data for each student in their school in the same manner provided to other public schools in the district. The bill allows school districts to withhold 5% or less of the administrative fee.

Capital Outlay Funding

Current law provides that the year in which funds are appropriated for charter school capital outlay purposes, the Commissioner of Education is required to allocate the funds among eligible schools.³¹ To be eligible for a funding allocation, a charter school must be in operation for 3 or more years, be an expanded feeder chain of a charter school within the same school district that is currently receiving capital outlay funds, or be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; have financial stability for future operation as a charter school; have satisfactory student achievement; have received final approval from their sponsor for operation during that year; and serve students in facilities that are not provided by the charter school's sponsor.³²

Section 1013.62(7), F.S., details how capital outlay funds are required to be allocated if the funds received are no greater than the funds appropriated in 2002-2003, if the funds are less than the funds appropriated in 2002-2003, and if the funds are greater than the funds appropriated in 2002-2003.

If the capital outlay appropriation is greater than the funds appropriated in 2002-2003, the bill changes the funding allocation for an eligible school that "has satisfactory student achievement" to a school that has received a school grade of "A" or "B", pursuant to s. 1008.34, F.S., during 3 of the last 4 school years.

Charter schools with long-term debt or long-term lease are the first priority for allocating the excess amount of the 2002-2003 appropriation. The excess amount is required to be prorated among these

²⁸ Exemption from assessment of fees for building permits except as provided in s. 553.80, F.S.

²⁹ s. 1002.33(18)(f), F.S.

³⁰ s. 1002.33(20), F.S.

³¹ s. 1013.62, F.S.

³² *Id.*

schools to the extent that the initial allocation is insufficient to provide one fifteenth of the cost-per-student station and second priority to be all other eligible charter schools.

Current law provides that capital outlay funds may be used by the charter school's governing body for the following purposes: purchase of real property; construction of school facilities; purchase, lease-purchase, or lease of permanent or relocatable school facilities; purchase of vehicles for transportation of students; and renovation, repair, and maintenance of school facilities owned by the charter school or being purchased or lease-purchase by the charter school.³³ The bill provides that capital outlay funds may also be used for furnishing and for the purchasing of equipment for charter school facilities.

Public Information on Charter Schools

The DOE is required to provide information directly to the public and through sponsors regarding how to form and operate a charter school and how to enroll in a charter school.³⁴ The bill provides that in addition to the standard application format, the DOE is required to create a standard charter format and standard charter renewal format that are to be used as guidelines by charter school sponsors.

Charter School Review Panel and Legislative Review

The bill provides that the DOE is required to staff and regularly convene a Charter School Review Panel to review issues, practices, and policies relating to charter schools. The bill requires a review of the operation of charter schools during the 2010 Regular Session of the Legislature.

Personnel

Beginning July 1, 2007, the bill provides for educator professional liability coverage for all full-time charter school instructional personnel, requires that educator professional liability coverage be extended at cost to all part-time charter school instructional personnel, and requires that educator professional liability coverage be extended at cost to all administrative personnel.

Student Preference

The bill eliminates the priority given to transitioning students from military families on admission to charter schools.

Charter Lab Schools

The bill provides that a charter lab school that attempts to fulfill its requirement to have a representative student population³⁵ and elects to provide student transportation to accomplish this is eligible for transportation funding pursuant to s. 1001.68, F.S.

C. SECTION DIRECTORY:

- Section 1. Amends s. 1002.33, F.S., relating to charter schools; revising the purpose of charter schools; revising the charter school application process and sponsor duties; requiring the DOE to provide technical assistance to charter school applicants; revising provisions relating to charter agreement, including nonrenewal or termination of charter; revising charter school requirements, including procedural requirements for charter schools found to be in a state of financial emergency; revising duties of charter school governing boards; providing procedures for charter schools to raise student achievement; revising provisions relating to funding of charter school student enrollment; authorizing zoning

³³s. 1013.62(2), F.S.

³⁴s. 1002.33(21), F.S.

³⁵Pursuant to 1002.32(4), F.S.

and land use designations; revising exemptions; revising provisions relating to services and the administrative fee requirement.

- Section 2. Amends s. 218.39, F.S., adding references relating to charter schools and annual financial audit reports.
- Section 3. Amends s. 218.50, F.S., revising the short title of ss. 218.50-218.504, F.S., to include charter schools.
- Section 4. Amends s. 218.501, F.S., adding a charter school reference.
- Section 5. Amends s. 218.503, F.S., adding references relating to charter schools and the determination of financial emergency.
- Section 6. Amends s. 218.504, F.S., adding references relating to charter schools and the cessation of state action.
- Section 7. Amends s. 11.45, F.S., conforming provisions relating to charter schools.
- Section 8. Amends s. 166.271, F.S., correcting cross references.
- Section 9. Amends s. 1002.32, F.S., providing that charter lab schools are eligible for transportation funding.
- Section 10. Amends s. 1003.05, F.S., removing charter school reference from assistance to transitioning students from military families.
- Section 11. Amends s. 1012.74, F.S., requiring educator professional liability insurance to cover charter school personnel.
- Section 12. Amends s. 1013.62, F.S., revising provisions related to capital outlay funding.
- Section 14. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

In the 2005-06 fiscal year, 39.37% of public school students were reported for student transportation funding, earning an average per student funding amount of \$434. Lab schools would earn \$764,113 in student transportation funding if 39.37% of the 4,472 lab school FTE students were eligible for transportation funding in the 2005-06 fiscal year. The appropriation for the student transportation categorical is appropriated annually in the General Appropriations Act, and would have to be increased \$764,113 so that the funds to the 67 school districts are not decreased due to the inclusion of lab schools.

The Department of Education is required to staff the Charter School Review Panel and to create a uniform on-line accountability report for charter schools, and a standard charter format and charter renewal format. The estimated administrative costs of these requirements are indeterminate at this time.

The bill adds exceptional student education evaluation services to the exceptional student education administration services provided for in current law. It also provides for food service eligibility and reporting duties so that the school lunch services under the federal lunch program are provided by the school district to the charter school at the school's request. The additional cost to school districts to provide these services are indeterminate but believed to be small.

Section 1013.62(7), F.S., details how capital outlay funds are required to be allocated to the charter schools. If the capital outlay appropriation is greater than the funds appropriated in 2002-2003, the bill changes the funding allocation for an eligible school that "has satisfactory student achievement" to a school that has received a school grade of "A" or "B", pursuant to s. 1008.34, F.S., during 3 of the last 4 school years. Charter schools with long-term debt or long-term lease are the first priority for allocating the excess amount of the 2002-2003 appropriation. The excess amount is required to be prorated among these schools to the extent that the initial allocation is insufficient to provide one fifteenth of the cost-per-student station and second priority to be all other eligible charter schools.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

This bill does not create any rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 7, 2006, the Choice and Innovation Committee adopted seven amendments and reported the bill favorably as amended. The amendments did the following:

Amendment 1 – Clarifies that sponsors are required to provide charter schools the student performance data for each student in their charter school in the same manner provided to other public schools in the district.

Amendment 2- Restores the current law requirement that charter schools must require the measurement of learning outcomes.

Amendment 3- Technical change to conform to Amendment 3.

Amendment 4 – Revises the length of time that charter school applicants and sponsors have to negotiate the provisions of the final charter contract.

Amendment 5 – Changes the initial term of the contract to 4 or 5 years.

Amendment 6 – Provides that the sponsor may not renew or terminate a contract for material breach or repeated violations of the terms of the charter.

Amendment 7 – Clarifies that the Commissioner of Education may withhold lottery fund from school districts for repeatedly failing to make timely and efficient payments to charter schools.

This analysis is drawn to the bill as amended.

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1 A bill to be entitled
2 An act relating to charter schools; amending s. 1002.33,
3 F.S.; revising charter school purposes; modifying
4 provisions relating to duties of sponsors, the application
5 process, denial of an application, and review of appeals;
6 requiring the Department of Education to provide technical
7 assistance to charter school applicants; providing
8 requirements relating to charter contracts; providing
9 procedures when a state of financial emergency exists;
10 revising provisions relating to charter terms and renewal;
11 revising nonrenewal and termination provisions, including
12 procedures for immediate termination; revising provisions
13 relating to the reversion of funds; revising duties of a
14 charter school governing body relating to audits;
15 requiring the department to develop a uniform
16 accountability report; providing procedures with respect
17 to charter schools with deficiencies; requiring a school
18 improvement plan to raise student achievement; providing
19 for probation and corrective actions; revising provisions
20 relating to payment and reimbursement to a charter school
21 by a school district and authorizing the withholding of
22 lottery funds under certain circumstances; authorizing the
23 State Board of Education to impose a fine on or withhold
24 lottery funds from a school district for certain
25 violations; requiring conversion charter schools to comply
26 with certain facility requirements under specific
27 situations; authorizing certain zoning and land use
28 designations for certain charter school facilities;

29 revising exemption from assessment of fees; providing for
30 additional services to charter schools and revising
31 administrative fee requirements; requiring the department
32 to develop a standard format for applications, charters,
33 and charter renewals; requiring legislative review of
34 charter schools in 2010; amending s. 218.39, F.S.;
35 requiring the governing body of a charter school to be
36 notified of certain deteriorating financial conditions;
37 amending s. 218.50, F.S.; modifying a short title;
38 amending s. 218.501, F.S.; including charter schools in
39 the statement of purpose relating to financial management;
40 amending s. 218.503, F.S.; providing for charter schools
41 to be subject to provisions governing financial
42 emergencies; providing procedures; amending s. 218.504,
43 F.S.; providing for cessation of state action related to a
44 state of financial emergency; amending s. 11.45, F.S.;
45 conforming provisions; amending s. 1002.32, F.S.;
46 providing that a charter lab school that elects to provide
47 student transportation is eligible for funding for that
48 purpose; amending s. 1003.05, F.S.; modifying the list of
49 special academic programs for transitioning students from
50 military families; amending s. 1012.74, F.S.; providing
51 that educator professional liability insurance shall cover
52 charter school personnel; amending s. 1013.62, F.S.;
53 revising provisions relating to eligibility for and
54 allocation of charter school capital outlay funding;
55 revising purposes for which capital outlay funds may be
56 used; providing effective dates.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.--

(1) AUTHORIZATION.--Charter schools shall be part of the state's program of public education. All charter schools in Florida are public schools. A charter school may be formed by creating a new school or converting an existing public school to charter status. A public school may not use the term charter in its name unless it has been approved under this section.

(2) GUIDING PRINCIPLES; PURPOSE.--

(a) Charter schools in Florida shall be guided by the following principles:

1. Meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state's public school system.

2. Promote enhanced academic success and financial efficiency by aligning responsibility with accountability.

3. Provide parents with sufficient information on whether their child is reading at grade level and whether the child gains at least a year's worth of learning for every year spent in the charter school.

(b) Charter schools shall fulfill the following purposes:

1. Improve student learning and academic achievement.

2. Increase learning opportunities for all students, with

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special emphasis on low-performing students and reading.

~~3. Create new professional opportunities for teachers, including ownership of the learning program at the school site.~~

~~3.4.~~ Encourage the use of innovative learning methods.

~~4.5.~~ Require the measurement of learning outcomes.

(c) Charter schools may fulfill the following purposes:

1. Create innovative measurement tools.

2. Provide rigorous competition within the public school district to stimulate continual improvement in all public schools.

3. Expand the capacity of the public school system.

4. Mitigate the educational impact created by the development of new residential dwelling units.

5. Create new professional opportunities for teachers, including ownership of the learning program at the school site.

(3) APPLICATION FOR CHARTER STATUS.--

(a) An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.

(b) An application for a conversion charter school shall be made by the district school board, the principal, teachers, parents, and/or the school advisory council at an existing public school that has been in operation for at least 2 years prior to the application to convert.~~, including A public school-~~
within-a-school that is designated as a school by the district school board may also submit an application to convert to charter status. An application submitted proposing to convert an

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existing public school to a charter school shall demonstrate the support of at least 50 percent of the teachers employed at the school and 50 percent of the parents voting whose children are enrolled at the school, provided that a majority of the parents eligible to vote participate in the ballot process, according to rules adopted by the State Board of Education. A district school board denying an application for a conversion charter school shall provide notice of denial to the applicants in writing within 10 ~~30~~ days after the meeting at which the district school board denied the application. The notice must articulate in writing ~~specify~~ the specific ~~exact~~ reasons for denial and must provide documentation supporting those reasons. A private school, parochial school, or home education program shall not be eligible for charter school status.

(4) UNLAWFUL REPRISAL.--

(a) No district school board, or district school board employee who has control over personnel actions, shall take unlawful reprisal against another district school board employee because that employee is either directly or indirectly involved with an application to establish a charter school. As used in this subsection, the term "unlawful reprisal" means an action taken by a district school board or a school system employee against an employee who is directly or indirectly involved in a lawful application to establish a charter school, which occurs as a direct result of that involvement, and which results in one or more of the following: disciplinary or corrective action; adverse transfer or reassignment, whether temporary or permanent; suspension, demotion, or dismissal; an unfavorable

141 performance evaluation; a reduction in pay, benefits, or
142 rewards; elimination of the employee's position absent of a
143 reduction in workforce as a result of lack of moneys or work; or
144 other adverse significant changes in duties or responsibilities
145 that are inconsistent with the employee's salary or employment
146 classification. The following procedures shall apply to an
147 alleged unlawful reprisal that occurs as a consequence of an
148 employee's direct or indirect involvement with an application to
149 establish a charter school:

150 1. Within 60 days after the date upon which a reprisal
151 prohibited by this subsection is alleged to have occurred, an
152 employee may file a complaint with the Department of Education.

153 2. Within 3 working days after receiving a complaint under
154 this section, the Department of Education shall acknowledge
155 receipt of the complaint and provide copies of the complaint and
156 any other relevant preliminary information available to each of
157 the other parties named in the complaint, which parties shall
158 each acknowledge receipt of such copies to the complainant.

159 3. If the Department of Education determines that the
160 complaint demonstrates reasonable cause to suspect that an
161 unlawful reprisal has occurred, the Department of Education
162 shall conduct an investigation to produce a fact-finding report.

163 4. Within 90 days after receiving the complaint, the
164 Department of Education shall provide the district school
165 superintendent of the complainant's district and the complainant
166 with a fact-finding report that may include recommendations to
167 the parties or a proposed resolution of the complaint. The fact-
168 finding report shall be presumed admissible in any subsequent or

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related administrative or judicial review.

5. If the Department of Education determines that reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, and is unable to conciliate a complaint within 60 days after receipt of the fact-finding report, the Department of Education shall terminate the investigation. Upon termination of any investigation, the Department of Education shall notify the complainant and the district school superintendent of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation. A written statement under this paragraph is presumed admissible as evidence in any judicial or administrative proceeding.

6. The Department of Education shall either contract with the Division of Administrative Hearings under s. 120.65, or otherwise provide for a complaint for which the Department of Education determines reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, and is unable to conciliate, to be heard by a panel of impartial persons. Upon hearing the complaint, the panel shall make findings of fact and conclusions of law for a final decision by the Department of Education.

It shall be an affirmative defense to any action brought pursuant to this section that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's exercise of rights protected by this section.

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(b) In any action brought under this section for which it is determined reasonable grounds exist to believe that an unlawful reprisal has occurred, is occurring, or is to be taken, the relief shall include the following:

1. Reinstatement of the employee to the same position held before the unlawful reprisal was commenced, or to an equivalent position, or payment of reasonable front pay as alternative relief.

2. Reinstatement of the employee's full fringe benefits and seniority rights, as appropriate.

3. Compensation, if appropriate, for lost wages, benefits, or other lost remuneration caused by the unlawful reprisal.

4. Payment of reasonable costs, including attorney's fees, to a substantially prevailing employee, or to the prevailing employer if the employee filed a frivolous action in bad faith.

5. Issuance of an injunction, if appropriate, by a court of competent jurisdiction.

6. Temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome of the complaint, if it is determined that the action was not made in bad faith or for a wrongful purpose, and did not occur after a district school board's initiation of a personnel action against the employee that includes documentation of the employee's violation of a disciplinary standard or performance deficiency.

(5) SPONSOR; DUTIES.--

(a) Sponsoring entities.--

1. A district school board may sponsor a charter school in

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the county over which the district school board has jurisdiction.

2. A state university may grant a charter to a lab school created under s. 1002.32 and shall be considered to be the school's sponsor. Such school shall be considered a charter lab school.

(b) Sponsor duties.--

1. The sponsor shall monitor and review the charter school in its progress toward the goals established in the charter.

2. The sponsor shall monitor the revenues and expenditures of the charter school.

3. The sponsor may approve a charter for a charter school before the applicant has secured space, equipment, or personnel, if the applicant indicates approval is necessary for it to raise working funds ~~capital~~.

4. The sponsor's policies shall not apply to a charter school unless mutually agreed to by both the sponsor and the charter school.

5. The sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 1000.03(5).

6. The sponsor shall ensure that the charter school participates in the state's education accountability system. If a charter school falls short of performance measures included in the approved charter, the sponsor shall report such shortcomings to the Department of Education.

7. The sponsor shall not impose additional reporting requirements on a charter school without providing reasonable

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and specific justification in writing to the charter school.

A community college may work with the school district or school districts in its designated service area to develop charter schools that offer secondary education. These charter schools must include an option for students to receive an associate degree upon high school graduation. District school boards shall cooperate with and assist the community college on the charter application. Community college applications for charter schools are not subject to the time deadlines outlined in subsection (6) and may be approved by the district school board at any time during the year. Community colleges shall not report FTE for any students who receive FTE funding through the Florida Education Finance Program.

(6) APPLICATION PROCESS AND REVIEW.--Charter school
~~Beginning September 1, 2003,~~ applications are subject to the following requirements:

(a) A person or entity wishing to open a charter school shall prepare an application that:

1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.

2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.

3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students

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are expected to show each year, how success will be evaluated,
and the specific results to be attained through instruction.

4. Describes the reading curriculum and differentiated
strategies that will be used for students reading at grade level
or higher and a separate curriculum and strategies for students
who are reading below grade level. A sponsor shall deny a
charter if the school does not propose a reading curriculum that
is consistent with effective teaching strategies that are
grounded in scientifically based reading research.

5. Contains an annual financial plan for each year
requested by the charter for operation of the school for up to 5
years. This plan must contain anticipated fund balances based on
revenue projections, a spending plan based on projected revenues
and expenses, and a description of controls that will safeguard
finances and projected enrollment trends.

(b) A district school board shall receive and review all
applications for a charter school. Beginning with the 2007-2008
school year, a district school board shall receive and consider
charter school applications received on or before August
~~September~~ 1 of each calendar year for charter schools to be
opened at the beginning of the school district's next school
year, or to be opened at a time agreed to by the applicant and
the district school board. A district school board may receive
applications later than this date if it chooses. A sponsor may
not charge an applicant for a charter any fee for the processing
or consideration of an application, and a sponsor may not base
its consideration or approval of an application upon the promise
of future payment of any kind.

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1. In order to facilitate an accurate budget projection process, a district school board shall be held harmless for FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a district school board or other sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.

2. In order to ensure fiscal responsibility, an application for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support, and an expense projection that includes full accounting of the costs of operation, including start-up costs.

3. A district school board shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the district school board and the applicant mutually agree in writing to temporarily postpone the vote to a specific date, at which time the district school board shall by a majority vote approve or deny the application. If the district school board fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (c). If an application is denied, the district school board shall, within 10 calendar days, articulate in writing the specific reasons for ~~based upon~~

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~~good cause supporting~~ its denial of the charter application and
shall provide the letter of denial and supporting documentation
to the applicant and to the Department of Education supporting
those reasons.

4. For budget projection purposes, the district school
board or other sponsor shall report to the Department of
Education the approval or denial of a charter application within
10 calendar days after such approval or denial. In the event of
approval, the report to the Department of Education shall
include the final projected FTE for the approved charter school.

5. Upon approval of a charter application, the initial
startup shall commence with the beginning of the public school
calendar for the district in which the charter is granted unless
the sponsor ~~district school board~~ allows a waiver of this
provision for good cause.

(c) An applicant may appeal any denial of that applicant's
application or failure to act on an application to the State
Board of Education no later than 30 calendar days after receipt
of the district school board's decision or failure to act and
shall notify the district school board of its appeal. Any
response of the district school board shall be submitted to the
State Board of Education within 30 calendar days after
notification of the appeal. Upon receipt of notification from
the State Board of Education that a charter school applicant is
filing an appeal, the Commissioner of Education shall convene a
meeting of the Charter School Appeal Commission to study and
make recommendations to the State Board of Education regarding
its pending decision about the appeal. The commission shall

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forward its recommendation to the state board no later than 7 calendar days prior to the date on which the appeal is to be heard. The State Board of Education shall by majority vote accept or reject the decision of the district school board no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The Charter School Appeal Commission may reject an appeal submission for failure to comply with procedural rules governing the appeals process. The rejection shall describe the submission errors. The appellant may have up to 15 calendar days from notice of rejection to resubmit an appeal that meets requirements of State Board of Education rule. An application for appeal submitted subsequent to such rejection shall be considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the district school board's denial of the charter application. The State Board of Education shall remand the application to the district school board with its written decision that the district school board approve or deny the application. The district school board shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

(d) The district school board shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review in the district court of appeal.

(e)1. A Charter School Appeal Commission is established to

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393 assist the commissioner and the State Board of Education with a
394 fair and impartial review of appeals by applicants whose charter
395 applications have been denied, whose charter contracts have not
396 been renewed, or whose charter contracts have been terminated by
397 their sponsors, ~~or whose disputes over contract negotiations~~
398 ~~have not been resolved through mediation.~~

399 2. The Charter School Appeal Commission may receive copies
400 of the appeal documents forwarded to the State Board of
401 Education, review the documents, gather other applicable
402 information regarding the appeal, and make a written
403 recommendation to the commissioner. The recommendation must
404 state whether the appeal should be upheld or denied and include
405 the reasons for the recommendation being offered. The
406 commissioner shall forward the recommendation to the State Board
407 of Education no later than 7 calendar days prior to the date on
408 which the appeal is to be heard. The state board must consider
409 the commission's recommendation in making its decision, but is
410 not bound by the recommendation. The decision of the Charter
411 School Appeal Commission is not subject to the provisions of the
412 Administrative Procedure Act, chapter 120.

413 3. The commissioner shall appoint the members of the
414 Charter School Appeal Commission. Members shall serve without
415 compensation but may be reimbursed for travel and per diem
416 expenses in conjunction with their service. One-half of the
417 members must represent currently operating charter schools, and
418 one-half of the members must represent school districts. The
419 commissioner or a named designee shall chair the Charter School
420 Appeal Commission.

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4. The chair shall convene meetings of the commission and shall ensure that the written recommendations are completed and forwarded in a timely manner. In cases where the commission cannot reach a decision, the chair shall make the written recommendation with justification, noting that the decision was rendered by the chair.

5. Commission members shall thoroughly review the materials presented to them from the appellant and the sponsor. The commission may request information to clarify the documentation presented to it. In the course of its review, the commission may facilitate the postponement of an appeal in those cases where additional time and communication may negate the need for a formal appeal and both parties agree, in writing, to postpone the appeal to the State Board of Education. A new date certain for the appeal shall then be set based upon the rules and procedures of the State Board of Education. Commission members shall provide a written recommendation to the state board as to whether the appeal should be upheld or denied. A fact-based justification for the recommendation must be included. The chair must ensure that the written recommendation is submitted to the State Board of Education members no later than 7 calendar days prior to the date on which the appeal is to be heard. Both parties in the case shall also be provided a copy of the recommendation.

(f) The Department of Education shall offer or arrange for training and technical assistance to charter school applicants in developing business plans and estimating costs and income. This assistance shall address estimating startup costs,

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projecting enrollment, and identifying the types and amounts of state and federal financial assistance the charter school will be eligible to receive. The department of ~~Education~~ may provide other technical assistance to an applicant upon written request.

(g) In considering charter applications for a lab school, a state university shall consult with the district school board of the county in which the lab school is located. The decision of a state university may be appealed pursuant to the procedure established in this subsection.

(h) The terms and conditions for the operation of a charter school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor shall not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The applicant and sponsor shall have 60 days to provide an initial proposed charter contract to the charter school and 75 days thereafter to negotiate the contract and ~~6 months in which~~ to mutually agree to the provisions of the final charter contract. The proposed charter shall be provided to the charter school at least 7 calendar days prior to the date on which the charter is scheduled to be heard by the sponsor. The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter application and for any dispute relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be

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appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge may rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial, a charter termination, or a charter nonrenewal and shall award the prevailing party reasonable attorney's fees and costs incurred to be paid by the losing party. The costs of the administrative hearing shall be paid by the party whom the administrative law judge rules against.

(7) CHARTER.--The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing body of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address, and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.

2. The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards. The charter shall ensure that reading is

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a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. The curriculum and instructional strategies for reading must be consistent with the Sunshine State Standards and grounded in scientifically based reading research.

3. The current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. The criteria listed in this subparagraph shall include a detailed description for each of the following:

a. How the baseline student academic achievement levels and prior rates of academic progress will be established.

b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school.

c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

The district school board is required to provide academic student performance data to charter schools for each of their students coming from the district school system, as well as rates of academic progress of comparable student populations in the district school system.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter

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533 school. Included in the methods is a means for the charter
534 school to ensure accountability to its constituents by analyzing
535 student performance data and by evaluating the effectiveness and
536 efficiency of its major educational programs. Students in
537 charter schools shall, at a minimum, participate in the
538 statewide assessment program created under s. 1008.22.

539 5. In secondary charter schools, a method for determining
540 that a student has satisfied the requirements for graduation in
541 s. 1003.43.

542 6. A method for resolving conflicts between the governing
543 body of the charter school and the sponsor.

544 7. The admissions procedures and dismissal procedures,
545 including the school's code of student conduct.

546 8. The ways by which the school will achieve a
547 racial/ethnic balance reflective of the community it serves or
548 within the racial/ethnic range of other public schools in the
549 same school district.

550 9. The financial and administrative management of the
551 school, including a reasonable demonstration of the professional
552 experience or competence of those individuals or organizations
553 applying to operate the charter school or those hired or
554 retained to perform such professional services and the
555 description of clearly delineated responsibilities and the
556 policies and practices needed to effectively manage the charter
557 school. A description of internal audit procedures and
558 establishment of controls to ensure that financial resources are
559 properly managed must be included. Both public sector and
560 private sector professional experience shall be equally valid in

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such a consideration.

10. The asset and liability projections required in the application which are incorporated into the charter and which shall be compared with information provided in the annual report of the charter school. The charter shall ensure that, if a charter school internal audit or annual financial audit reveals a state of financial emergency as defined in s. 218.503 or deficit financial position, the auditors are required to notify the charter school governing board, the sponsor, and the Department of Education. The internal auditor shall report such findings in the form of an exit interview to the principal or the principal administrator of the charter school and the chair of the governing board within 7 working days after finding the state of financial emergency or deficit position. A final report shall be provided to the entire governing board, the sponsor, and the Department of Education within 14 working days after the exit interview. When a charter school is in a state of financial emergency, the charter school shall file a detailed financial recovery plan with the sponsor. The department, with the involvement of both sponsors and charter schools, shall establish guidelines for developing such plans.

11. A description of procedures that identify various risks and provide for a comprehensive approach to reduce the impact of losses; plans to ensure the safety and security of students and staff; plans to identify, minimize, and protect others from violent or disruptive student behavior; and the manner in which the school will be insured, including whether or not the school will be required to have liability insurance,

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and, if so, the terms and conditions thereof and the amounts of coverage.

12. The term of the charter which shall provide for cancellation of the charter if insufficient progress has been made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter shall be for ~~3~~⁴ or 5 years. In order to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a municipality or other public entity as provided by law are eligible for up to a 15-year charter, subject to approval by the district school board. A charter lab school is eligible for a charter for a term of up to 15 years. In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year ~~10-year~~ charter, subject to approval by the district school board. Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only ~~for specific good cause~~ according to the provisions set forth in subsection (8).

13. The facilities to be used and their location.

14. The qualifications to be required of the teachers and the potential strategies used to recruit, hire, train, and retain qualified staff to achieve best value.

15. The governance structure of the school, including the status of the charter school as a public or private employer as

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required in paragraph (12)(i).

16. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this timetable.

17. In the case of an existing public school being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement. However, alternative arrangements shall not be required for current teachers who choose not to teach in a charter lab school, except as authorized by the employment policies of the state university which grants the charter to the lab school.

(b)1. A charter may be renewed ~~every 5 school years,~~ provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished and that none of the grounds for nonrenewal established by paragraph (8)(a) has been documented. In order to facilitate long-term financing for charter school construction, charter schools operating for a minimum of 2 years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. Such long-term charter is subject to annual review and may be terminated during the term of the charter.

2. The 15-year charter renewal that may be granted pursuant to subparagraph 1. shall be granted to a charter school

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that has received a school grade of "A" or "B" pursuant to s. 1008.34 in 3 of the past 4 years and is not in a state of financial emergency or deficit position as defined by this section. Such long-term charter is subject to annual review and may be terminated during the term of the charter pursuant to subsection (8).

(c) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school governing board and the approval of both parties to the agreement.

(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.--

(a) ~~At the end of the term of a charter,~~ The sponsor may choose not to renew or may terminate the charter for any of the following grounds:

1. Failure to participate in the state's education accountability system created in s. 1008.31, as required in this section, or failure to meet the requirements for student performance stated in the charter.

2. Failure to meet generally accepted standards of fiscal management.

3. Violation of law.

4. Determination by the sponsor that the health, safety, or welfare of the students is threatened ~~Other good cause shown.~~

5. Material breach or repeated violations of the terms of the charter.

~~(b) During the term of a charter, the sponsor may terminate the charter for any of the grounds listed in paragraph (a).~~

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673 ~~(b)(e)~~ At least 90 days prior to renewing or terminating a
 674 charter, the sponsor shall notify the governing body of the
 675 school of the proposed action in writing. The notice shall state
 676 in reasonable detail the grounds for the proposed action and
 677 stipulate that the school's governing body may, within 14
 678 calendar days after receiving the notice, request an informal
 679 hearing before the sponsor. The sponsor shall conduct the
 680 informal hearing within 30 calendar days after receiving a
 681 written request. ~~The charter school's governing body may, within~~
 682 ~~14 calendar days after receiving the sponsor's decision to~~
 683 ~~terminate or refuse to renew the charter, appeal the decision~~
 684 ~~pursuant to the procedure established in subsection (6).~~

685 (c) If a charter is not renewed or is terminated pursuant
 686 to paragraph (b), the sponsor shall, within 10 calendar days,
 687 articulate in writing the specific reasons for its nonrenewal or
 688 termination of the charter and must provide the letter of
 689 nonrenewal or termination and documentation supporting the
 690 reasons to the charter school governing body, the charter school
 691 principal, and the Department of Education. The charter school's
 692 governing body may, within 30 calendar days after receiving the
 693 sponsor's final written decision to refuse to renew or to
 694 terminate the charter, appeal the decision pursuant to the
 695 procedure established in subsection (6).

696 (d) A charter may be terminated immediately if the sponsor
 697 determines that ~~good cause has been shown or if the health,~~
 698 ~~safety, or welfare of the students is threatened.~~ The sponsor
 699 shall notify in writing the charter school's governing body, the
 700 charter school principal, and the department if a charter is

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immediately terminated. The sponsor shall clearly identify the
specific issues that resulted in the immediate termination and
provide evidence of prior notification of issues resulting in
the immediate termination when appropriate. The school district
in which the charter school is located shall assume operation of
the school under these circumstances. The charter school's
governing board may, within 30 ~~14~~ days after receiving the
sponsor's decision to terminate the charter, appeal the decision
pursuant to the procedure established in subsection (6).

(e) When a charter is not renewed or is terminated, the
school shall be dissolved under the provisions of law under
which the school was organized, and any unencumbered public
funds, except for capital outlay funds and federal charter
school program grant funds, from the charter school shall revert
to the sponsor ~~district school board~~. Capital outlay funds
provided pursuant to s. 1013.62 and federal charter school
program grant funds that are unencumbered shall revert to the
department to be redistributed among eligible charter schools.
In the event a charter school is dissolved or is otherwise
terminated, all district school board property and improvements,
furnishings, and equipment purchased with public funds shall
automatically revert to full ownership by the district school
board, subject to complete satisfaction of any lawful liens or
encumbrances. Any unencumbered public funds from the charter
school, district school board property and improvements,
furnishings, and equipment purchased with public funds, or
financial or other records pertaining to the charter school, in
the possession of any person, entity, or holding company, other

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than the charter school, shall be held in trust upon the district school board's request, until any appeal status is resolved.

(f) If a charter is not renewed or is terminated, the charter school is responsible for all debts of the charter school. The district may not assume the debt from any contract for services made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in writing by both the district and the governing body of the school and that may not reasonably be assumed to have been satisfied by the district.

(g) If a charter is not renewed or is terminated, a student who attended the school may apply to, and shall be enrolled in, another public school. Normal application deadlines shall be disregarded under such circumstances.

(9) CHARTER SCHOOL REQUIREMENTS.--

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(b) A charter school shall admit students as provided in subsection (10).

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (7).

(d) A charter school shall not charge tuition or registration fees, except those fees normally charged by other public schools. However, a charter lab school may charge a student activity and service fee as authorized by s. 1002.32(5).

(e) A charter school shall meet all applicable state and

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local health, safety, and civil rights requirements.

(f) A charter school shall not violate the
antidiscrimination provisions of s. 1000.05.

(g) A charter school shall provide for an annual financial
audit in accordance with s. 218.39. Financial audits that reveal
a state of financial emergency as defined in s. 218.503 and are
conducted by a certified public accountant or auditor in
accordance with s. 218.39 shall be provided to the governing
body of the charter school within 7 working days after finding
that a state of financial emergency exists. When a charter
school is found to be in a state of financial emergency by a
certified public accountant or auditor, the charter school must
file a detailed financial recovery plan with the sponsor within
30 days after receipt of the audit.

(h) No organization shall hold more than 15 charters
statewide.

(i) In order to provide financial information that is
comparable to that reported for other public schools, charter
schools are to maintain all financial records which constitute
their accounting system:

1. In accordance with the accounts and codes prescribed in
the most recent issuance of the publication titled "Financial
and Program Cost Accounting and Reporting for Florida Schools";
or

2. At the discretion of the charter school governing
board, a charter school may elect to follow generally accepted
accounting standards for not-for-profit organizations, but must
reformat this information for reporting according to this

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paragraph.

Charter schools shall ~~are to~~ provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph.

(j) The governing board of the charter school shall annually adopt and maintain an operating budget.

(k) The governing body of the charter school shall exercise continuing oversight over charter school operations.

(l) The governing body of the charter school shall be responsible for:

1. Ensuring that the charter school has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to paragraph (g), who shall submit the report to the governing body.

2. Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.

3. Monitoring a financial recovery plan in order to ensure compliance.

(m)~~(l)~~ The governing body of the charter school shall report its progress annually to its sponsor, which shall forward the report to the Commissioner of Education at the same time as

813 other annual school accountability reports. The Department of
814 Education shall develop a uniform, on-line annual accountability
815 report to be completed by charter schools. This report shall be
816 easy to utilize and contain demographic information, student
817 performance data, and financial accountability information. A
818 charter school shall not be required to provide information and
819 data that is duplicative and already in the possession of the
820 department. The Department of Education shall include in its
821 compilation a notation if a school failed to file its report by
822 the deadline established by the department. The report shall
823 include at least the following components:

824 1. Student achievement performance data, including the
825 information required for the annual school report and the
826 education accountability system governed by ss. 1008.31 and
827 1008.345. Charter schools are subject to the same accountability
828 requirements as other public schools, including reports of
829 student achievement information that links baseline student data
830 to the school's performance projections identified in the
831 charter. The charter school shall identify reasons for any
832 difference between projected and actual student performance.

833 2. Financial status of the charter school which must
834 include revenues and expenditures at a level of detail that
835 allows for analysis of the ability to meet financial obligations
836 and timely repayment of debt.

837 3. Documentation of the facilities in current use and any
838 planned facilities for use by the charter school for instruction
839 of students, administrative functions, or investment purposes.

840 4. Descriptive information about the charter school's

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personnel, including salary and benefit levels of charter school employees, the proportion of instructional personnel who hold professional or temporary certificates, and the proportion of instructional personnel teaching in-field or out-of-field.

(n)~~(m)~~ A charter school shall not levy taxes or issue bonds secured by tax revenues.

(o)~~(n)~~ A charter school shall provide instruction for at least the number of days required by law for other public schools, and may provide instruction for additional days.

(p) The director and a representative of the governing body of a charter school that has received a school grade of "D" under s. 1008.34(2) shall appear before the sponsor or the sponsor's staff at least once a year to present information concerning each contract component having noted deficiencies. The sponsor shall communicate at the meeting, and in writing to the director, the services provided to the school to help the school address its deficiencies.

(q) Upon notification that a charter school receives a school grade of "D" for 2 consecutive years or a school grade of "F" under s. 1008.34(2), the charter school sponsor or the sponsor's staff shall require the director and a representative of the governing body to submit to the sponsor for approval a school improvement plan to raise student achievement and to implement the plan. The sponsor has the authority to approve a school improvement plan that the charter school will implement in the following school year. The Department of Education shall offer technical assistance and training to the charter school and its governing body and establish guidelines for developing,

869 submitting, and approving such plans.

870 1. If the charter school fails to improve its student
871 performance from the year immediately prior to the
872 implementation of the school improvement plan, the sponsor shall
873 place the charter school on probation and shall require the
874 charter school governing body to take one of the following
875 corrective actions:

876 a. Contract for the educational services of the charter
877 school;

878 b. Reorganize the school at the end of the school year
879 under a new director or principal who is authorized to hire new
880 staff and implement a plan that addresses the causes of
881 inadequate progress; or

882 c. Reconstitute the charter school.

883 2. A charter school that is placed on probation shall
884 continue the corrective actions required under subparagraph 1.
885 until the charter school improves its student performance from
886 the year prior to the implementation of the school improvement
887 plan.

888 3. Notwithstanding any provision of this paragraph, the
889 sponsor may terminate the charter at any time pursuant to the
890 provisions of subsection (8).

891 (r) The director and a representative of the governing
892 body of a graded charter school that has submitted a school
893 improvement plan or has been placed on probation under paragraph
894 (q) shall appear before the sponsor or the sponsor's staff at
895 least once a year to present information regarding the
896 corrective strategies that are being implemented by the school

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pursuant to the school improvement plan. The sponsor shall
communicate at the meeting, and in writing to the director, the
services provided to the school to help the school address its
deficiencies.

(10) ELIGIBLE STUDENTS.--

(a) A charter school shall be open to any student covered
in an interdistrict agreement or residing in the school district
in which the charter school is located; however, in the case of
a charter lab school, the charter lab school shall be open to
any student eligible to attend the lab school as provided in s.
1002.32 or who resides in the school district in which the
charter lab school is located. Any eligible student shall be
allowed interdistrict transfer to attend a charter school when
based on good cause.

(b) The charter school shall enroll an eligible student
who submits a timely application, unless the number of
applications exceeds the capacity of a program, class, grade
level, or building. In such case, all applicants shall have an
equal chance of being admitted through a random selection
process.

(c) When a public school converts to charter status,
enrollment preference shall be given to students who would have
otherwise attended that public school.

(d) A charter school may give enrollment preference to the
following student populations:

1. Students who are siblings of a student enrolled in the
charter school.

2. Students who are the children of a member of the

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925 governing board of the charter school.

926 3. Students who are the children of an employee of the
927 charter school.

928 (e) A charter school may limit the enrollment process only
929 to target the following student populations:

930 1. Students within specific age groups or grade levels.

931 2. Students considered at risk of dropping out of school
932 or academic failure. Such students shall include exceptional
933 education students.

934 3. Students enrolling in a charter school-in-the-workplace
935 or charter school-in-a-municipality established pursuant to
936 subsection (15).

937 4. Students residing within a reasonable distance of the
938 charter school, as described in paragraph (20)(c). Such students
939 shall be subject to a random lottery and to the racial/ethnic
940 balance provisions described in subparagraph (7)(a)8. or any
941 federal provisions that require a school to achieve a
942 racial/ethnic balance reflective of the community it serves or
943 within the racial/ethnic range of other public schools in the
944 same school district.

945 5. Students who meet reasonable academic, artistic, or
946 other eligibility standards established by the charter school
947 and included in the charter school application and charter or,
948 in the case of existing charter schools, standards that are
949 consistent with the school's mission and purpose. Such standards
950 shall be in accordance with current state law and practice in
951 public schools and may not discriminate against otherwise
952 qualified individuals.

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6. Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor.

(f) Students with handicapping conditions and students served in English for Speakers of Other Languages programs shall have an equal opportunity of being selected for enrollment in a charter school.

(g) A student may withdraw from a charter school at any time and enroll in another public school as determined by district school board rule.

(h) The capacity of the charter school shall be determined annually by the governing board, in conjunction with the sponsor, of the charter school in consideration of the factors identified in this subsection.

(11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES.--A charter school student is eligible to participate in an interscholastic extracurricular activity at the public school to which the student would be otherwise assigned to attend pursuant to s. 1006.15(3)(d).

(12) EMPLOYEES OF CHARTER SCHOOLS.--

(a) A charter school shall select its own employees. A charter school may contract with its sponsor for the services of personnel employed by the sponsor.

(b) Charter school employees shall have the option to bargain collectively. Employees may collectively bargain as a separate unit or as part of the existing district collective bargaining unit as determined by the structure of the charter school.

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981 (c) The employees of a conversion charter school shall
982 remain public employees for all purposes, unless such employees
983 choose not to do so.

984 (d) The teachers at a charter school may choose to be part
985 of a professional group that subcontracts with the charter
986 school to operate the instructional program under the auspices
987 of a partnership or cooperative that they collectively own.
988 Under this arrangement, the teachers would not be public
989 employees.

990 (e) Employees of a school district may take leave to
991 accept employment in a charter school upon the approval of the
992 district school board. While employed by the charter school and
993 on leave that is approved by the district school board, the
994 employee may retain seniority accrued in that school district
995 and may continue to be covered by the benefit programs of that
996 school district, if the charter school and the district school
997 board agree to this arrangement and its financing. School
998 districts shall not require resignations of teachers desiring to
999 teach in a charter school. This paragraph shall not prohibit a
1000 district school board from approving alternative leave
1001 arrangements consistent with chapter 1012.

1002 (f) Teachers employed by or under contract to a charter
1003 school shall be certified as required by chapter 1012. A charter
1004 school governing board may employ or contract with skilled
1005 selected noncertified personnel to provide instructional
1006 services or to assist instructional staff members as education
1007 paraprofessionals in the same manner as defined in chapter 1012,
1008 and as provided by State Board of Education rule for charter

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1009 school governing boards. A charter school may not knowingly
 1010 employ an individual to provide instructional services or to
 1011 serve as an education paraprofessional if the individual's
 1012 certification or licensure as an educator is suspended or
 1013 revoked by this or any other state. A charter school may not
 1014 knowingly employ an individual who has resigned from a school
 1015 district in lieu of disciplinary action with respect to child
 1016 welfare or safety, or who has been dismissed for just cause by
 1017 any school district with respect to child welfare or safety. The
 1018 qualifications of teachers shall be disclosed to parents.

1019 (g) A charter school shall employ or contract with
 1020 employees who have undergone background screening as provided in
 1021 s. 1012.32. Members of the governing board of the charter school
 1022 shall also undergo background screening in a manner similar to
 1023 that provided in s. 1012.32.

1024 (h) For the purposes of tort liability, the governing body
 1025 and employees of a charter school shall be governed by s.
 1026 768.28.

1027 (i) A charter school shall organize as, or be operated by,
 1028 a nonprofit organization. A charter school may be operated by a
 1029 municipality or other public entity as provided for by law. As
 1030 such, the charter school may be either a private or a public
 1031 employer. As a public employer, a charter school may participate
 1032 in the Florida Retirement System upon application and approval
 1033 as a "covered group" under s. 121.021(34). If a charter school
 1034 participates in the Florida Retirement System, the charter
 1035 school employees shall be compulsory members of the Florida
 1036 Retirement System. As either a private or a public employer, a

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1037 charter school may contract for services with an individual or
1038 group of individuals who are organized as a partnership or a
1039 cooperative. Individuals or groups of individuals who contract
1040 their services to the charter school are not public employees.

1041 (13) CHARTER SCHOOL COOPERATIVES.--Charter schools may
1042 enter into cooperative agreements to form charter school
1043 cooperative organizations that may provide the following
1044 services: charter school planning and development, direct
1045 instructional services, and contracts with charter school
1046 governing boards to provide personnel administrative services,
1047 payroll services, human resource management, evaluation and
1048 assessment services, teacher preparation, and professional
1049 development.

1050 (14) CHARTER SCHOOL FINANCIAL ARRANGEMENTS;
1051 INDEMNIFICATION OF THE STATE AND SCHOOL DISTRICT; CREDIT OR
1052 TAXING POWER NOT TO BE PLEDGED.--Any arrangement entered into to
1053 borrow or otherwise secure funds for a charter school authorized
1054 in this section from a source other than the state or a school
1055 district shall indemnify the state and the school district from
1056 any and all liability, including, but not limited to, financial
1057 responsibility for the payment of the principal or interest. Any
1058 loans, bonds, or other financial agreements are not obligations
1059 of the state or the school district but are obligations of the
1060 charter school authority and are payable solely from the sources
1061 of funds pledged by such agreement. The credit or taxing power
1062 of the state or the school district shall not be pledged and no
1063 debts shall be payable out of any moneys except those of the
1064 legal entity in possession of a valid charter approved by a

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1065 district school board pursuant to this section.

1066 (15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-
1067 A-MUNICIPALITY.--

1068 (a) In order to increase business partnerships in
1069 education, to reduce school and classroom overcrowding
1070 throughout the state, and to offset the high costs for
1071 educational facilities construction, the Legislature intends to
1072 encourage the formation of business partnership schools or
1073 satellite learning centers and municipal-operated schools
1074 through charter school status.

1075 (b) A charter school-in-the-workplace may be established
1076 when a business partner provides the school facility to be used;
1077 enrolls students based upon a random lottery that involves all
1078 of the children of employees of that business or corporation who
1079 are seeking enrollment, as provided for in subsection (10); and
1080 enrolls students according to the racial/ethnic balance
1081 provisions described in subparagraph (7)(a)8. Any portion of a
1082 facility used for a public charter school shall be exempt from
1083 ad valorem taxes, as provided for in s. 1013.54, for the
1084 duration of its use as a public school.

1085 (c) A charter school-in-a-municipality designation may be
1086 granted to a municipality that possesses a charter; enrolls
1087 students based upon a random lottery that involves all of the
1088 children of the residents of that municipality who are seeking
1089 enrollment, as provided for in subsection (10); and enrolls
1090 students according to the racial/ethnic balance provisions
1091 described in subparagraph (7)(a)8. When a municipality has
1092 submitted charter applications for the establishment of a

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charter school feeder pattern, consisting of elementary, middle, and senior high schools, and each individual charter application is approved by the district school board, such schools shall then be designated as one charter school for all purposes listed pursuant to this section. Any portion of the land and facility used for a public charter school shall be exempt from ad valorem taxes, as provided for in s. 1013.54, for the duration of its use as a public school.

(d) As used in this subsection, the terms "business partner" or "municipality" may include more than one business or municipality to form a charter school-in-the-workplace or charter school-in-a-municipality.

(16) EXEMPTION FROM STATUTES.--

(a) A charter school shall operate in accordance with its charter and shall be exempt from all statutes in chapters 1000-1013. However, a charter school shall be in compliance with the following statutes in chapters 1000-1013:

1. Those statutes specifically applying to charter schools, including this section.

2. Those statutes pertaining to the student assessment program and school grading system.

3. Those statutes pertaining to the provision of services to students with disabilities.

4. Those statutes pertaining to civil rights, including s. 1000.05, relating to discrimination.

5. Those statutes pertaining to student health, safety, and welfare.

(b) Additionally, a charter school shall be in compliance

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1121 with the following statutes:

1122 1. Section 286.011, relating to public meetings and
1123 records, public inspection, and criminal and civil penalties.

1124 2. Chapter 119, relating to public records.

1125 (17) FUNDING.--Students enrolled in a charter school,
1126 regardless of the sponsorship, shall be funded as if they are in
1127 a basic program or a special program, the same as students
1128 enrolled in other public schools in the school district. Funding
1129 for a charter lab school shall be as provided in s. 1002.32.

1130 (a) Each charter school shall report its student
1131 enrollment to the district school board as required in s.
1132 1011.62, and in accordance with the definitions in s. 1011.61.
1133 The district school board shall include each charter school's
1134 enrollment in the district's report of student enrollment. All
1135 charter schools submitting student record information required
1136 by the Department of Education shall comply with the Department
1137 of Education's guidelines for electronic data formats for such
1138 data, and all districts shall accept electronic data that
1139 complies with the Department of Education's electronic format.

1140 (b) The basis for the agreement for funding students
1141 enrolled in a charter school shall be the sum of the school
1142 district's operating funds from the Florida Education Finance
1143 Program as provided in s. 1011.62 and the General Appropriations
1144 Act, including gross state and local funds, discretionary
1145 lottery funds, and funds from the school district's current
1146 operating discretionary millage levy; divided by total funded
1147 weighted full-time equivalent students in the school district;
1148 multiplied by the weighted full-time equivalent students for the

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1149 charter school. Charter schools whose students or programs meet
 1150 the eligibility criteria in law shall be entitled to their
 1151 proportionate share of categorical program funds included in the
 1152 total funds available in the Florida Education Finance Program
 1153 by the Legislature, including transportation. Total funding for
 1154 each charter school shall be recalculated during the year to
 1155 reflect the revised calculations under the Florida Education
 1156 Finance Program by the state and the actual weighted full-time
 1157 equivalent students reported by the charter school during the
 1158 full-time equivalent student survey periods designated by the
 1159 Commissioner of Education.

1160 (c) If the district school board is providing programs or
 1161 services to students funded by federal funds, any eligible
 1162 students enrolled in charter schools in the school district
 1163 shall be provided federal funds for the same level of service
 1164 provided students in the schools operated by the district school
 1165 board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all
 1166 charter schools shall receive all federal funding for which the
 1167 school is otherwise eligible, including Title I funding, not
 1168 later than 5 months after the charter school first opens and
 1169 within 5 months after any subsequent expansion of enrollment.

1170 (d) District school boards shall make ~~every effort to~~
 1171 ~~ensure that charter schools receive~~ timely and efficient payment
 1172 and reimbursement to charter schools, including processing
 1173 paperwork required to access special state and federal funding
 1174 for which they may be eligible. The district school board may
 1175 distribute funds to a charter school for up to 3 months based on
 1176 the projected full-time equivalent student membership of the

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1177 charter school. Thereafter, the results of full-time equivalent
1178 student membership surveys shall be used in adjusting the amount
1179 of funds distributed monthly to the charter school for the
1180 remainder of the fiscal year. The payment shall be issued no
1181 later than 10 working days after the district school board
1182 receives a distribution of state or federal funds. If a warrant
1183 for payment is not issued within 10 ~~30~~ working days after
1184 receipt of funding by the district school board, the school
1185 district shall pay to the charter school, in addition to the
1186 amount of the scheduled disbursement, interest at a rate of 5 ~~1~~
1187 percent per month calculated on a daily basis on the unpaid
1188 balance from the expiration of the 10 working days ~~30-day period~~
1189 until such time as the warrant is issued. The Commissioner of
1190 Education is authorized to withhold lottery funds from school
1191 districts that repeatedly fail to make timely payments and
1192 reimbursements.

1193 (e) The State Board of Education is authorized to impose a
1194 fine on or withhold lottery funds from a school district for any
1195 violation of the procedural requirements for charter school
1196 application, termination, or nonrenewal appeals regardless of
1197 whether the violation affects the fairness of the appeal process
1198 or the correctness of the action taken by the school district.
1199 Prior to the imposition of a fine or the withholding of lottery
1200 funds under this paragraph, the State Board of Education shall
1201 provide the school district with notice of the amount of the
1202 proposed fine or lottery funds to be withheld and an opportunity
1203 to be heard at a subsequent meeting of the State Board of
1204 Education. The funds collected for fines under this paragraph

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1205 shall be taken from the school district's administrative fee
 1206 under paragraph (20) (a) and disbursed to the prevailing charter
 1207 school appellant under this section or, if the charter school
 1208 appellant's appeal is denied, in equal amounts to each of the
 1209 charter schools within the school district. The imposition of a
 1210 fine under this paragraph shall not exceed \$10,000 and is a
 1211 final action subject to judicial review in the district court of
 1212 appeals.

1213 (18) FACILITIES.--

1214 (a) A startup charter school shall utilize facilities
 1215 which comply with the Florida Building Code pursuant to chapter
 1216 553 except for the State Requirements for Educational
 1217 Facilities. Conversion charter schools shall utilize facilities
 1218 that comply with the State Requirements for Educational
 1219 Facilities, provided that the school district and the charter
 1220 school have entered into a mutual management plan with
 1221 sufficient funding from the school district to comply with the
 1222 State Requirements for Educational Facilities. Charter schools,
 1223 with the exception of conversion charter schools, are not
 1224 required to comply, but may choose to comply, with the State
 1225 Requirements for Educational Facilities of the Florida Building
 1226 Code adopted pursuant to s. 1013.37. The local governing
 1227 authority shall not adopt or impose local building requirements
 1228 or restrictions that are more stringent than those found in the
 1229 Florida Building Code. The agency having jurisdiction for
 1230 inspection of a facility and issuance of a certificate of
 1231 occupancy shall be the local municipality or, if in an
 1232 unincorporated area, the county governing authority.

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(b) A charter school shall utilize facilities that comply with the Florida Fire Prevention Code, pursuant to s. 633.025, as adopted by the authority in whose jurisdiction the facility is located as provided in paragraph (a).

(c) Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor and the governing board, pursuant to subsection (7), shall be exempt from ad valorem taxes pursuant to s. 196.1983. Library, community service, museum, performing arts, theatre, cinema, church, community college, college, and university facilities may provide space to charter schools within their facilities under their preexisting zoning and land use designations.

(d) Charter school facilities are exempt from assessments of fees for building permits, except as provided in s. 553.80, fees and for building and occupational licenses, and ~~from assessments of~~ impact fees or service availability fees.

(e) If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it shall be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the school district may not sell or dispose of such property without written permission of the school district. Similarly, for an existing public school converting to charter status, no rental or leasing fee for the existing facility or for the property normally inventoried to the conversion school may be charged by the district school board to the parents and teachers organizing the charter school. The charter school

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1261 ~~organizers~~ shall agree to reasonable maintenance provisions in
1262 order to maintain the facility in a manner similar to district
1263 school board standards. The Public Education Capital Outlay
1264 maintenance funds or any other maintenance funds generated by
1265 the facility operated as a conversion school shall remain with
1266 the conversion school.

1267 (f) To the extent that charter school facilities are
1268 specifically created to mitigate the educational impact created
1269 by the development of new residential dwelling units, pursuant
1270 to subparagraph (2)(c)4., some of or all of the educational
1271 impact fees required to be paid in connection with the new
1272 residential dwelling units may be designated instead for the
1273 construction of the charter school facilities that will mitigate
1274 the student station impact. Such facilities shall be built to
1275 the State Requirements for Educational Facilities and shall be
1276 owned by a public or nonprofit entity. The local school district
1277 retains the right to monitor and inspect such facilities to
1278 ensure compliance with the State Requirements for Educational
1279 Facilities. If a facility ceases to be used for public
1280 educational purposes, either the facility shall revert to the
1281 school district subject to any debt owed on the facility, or the
1282 owner of the facility shall have the option to refund all
1283 educational impact fees utilized for the facility to the school
1284 district. The district and the owner of the facility may
1285 contractually agree to another arrangement for the facilities if
1286 the facilities cease to be used for educational purposes. The
1287 owner of property planned or approved for new residential
1288 dwelling units and the entity levying educational impact fees

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1289 shall enter into an agreement that designates the educational
1290 impact fees that will be allocated for the charter school
1291 student stations and that ensures the timely construction of the
1292 charter school student stations concurrent with the expected
1293 occupancy of the residential units. The application for use of
1294 educational impact fees shall include an approved charter school
1295 application. To assist the school district in forecasting
1296 student station needs, the entity levying the impact fees shall
1297 notify the affected district of any agreements it has approved
1298 for the purpose of mitigating student station impact from the
1299 new residential dwelling units.

1300 (19) CAPITAL OUTLAY FUNDING.--Charter schools are eligible
1301 for capital outlay funds pursuant to s. 1013.62.

1302 (20) SERVICES.--

1303 (a) A sponsor shall provide certain administrative and
1304 educational services to charter schools. These services shall
1305 include contract management services; full-time equivalent and
1306 data reporting services; exceptional student education
1307 administration and evaluation services; services related to
1308 eligibility and reporting duties required to ensure that school
1309 lunch services under the federal lunch program, consistent with
1310 the needs of the charter school, are provided by the school
1311 district at the request of the charter school; test
1312 administration services, including payment of the costs of
1313 state-required or district-required student assessments;
1314 processing of teacher certificate data services; and information
1315 services, including equal access to student information systems
1316 that are used by public schools in the district in which the

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charter school is located. Student performance data for each student in a charter school, including, but not limited to, FCAT scores, standardized test scores, individual report cards, and student performance measures, shall be provided by the sponsor to a charter school in the same manner provided to other public schools in the district. A total administrative fee for the provision of such services shall be calculated based upon up to 5 percent of the available funds defined in paragraph (17)(b) for all students. However, a sponsor may only withhold up to a 5-percent administrative fee for enrollment for up to and including 500 students. For charter schools with a population of 501 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62 (4) ~~(2)~~. Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum 5-percent administrative fee withheld pursuant to this paragraph.

(b) If goods and services are made available to the charter school through the contract with the school district, they shall be provided to the charter school at a rate no greater than the district's actual cost unless mutually agreed upon by the charter school and the sponsor in a contract negotiated separately from the charter. When mediation has failed to resolve disputes over contracted services or contractual matters not included in the charter, an appeal may be made for a dispute resolution hearing before the Charter

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1345 School Appeal Commission. To maximize the use of state funds,
1346 school districts shall allow charter schools to participate in
1347 the sponsor's bulk purchasing program if applicable.

1348 (c) Transportation of charter school students shall be
1349 provided by the charter school consistent with the requirements
1350 of subpart I.E. of chapter 1006 and s. 1012.45. The governing
1351 body of the charter school may provide transportation through an
1352 agreement or contract with the district school board, a private
1353 provider, or parents. The charter school and the sponsor shall
1354 cooperate in making arrangements that ensure that transportation
1355 is not a barrier to equal access for all students residing
1356 within a reasonable distance of the charter school as determined
1357 in its charter.

1358 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.--The
1359 Department of Education shall provide information to the public,
1360 directly and through sponsors, both on how to form and operate a
1361 charter school and on how to enroll in charter schools once they
1362 are created. This information shall include a standard
1363 application format, charter format, and charter renewal format
1364 which shall include the information specified in subsection (7).
1365 These formats shall ~~This application format may~~ be used as
1366 guidelines by charter school sponsors ~~chartering entities~~.

1367 (22) CHARTER SCHOOL REVIEW PANEL AND LEGISLATIVE REVIEW.--

1368 (a) The Department of Education shall staff and regularly
1369 convene a Charter School Review Panel in order to review issues,
1370 practices, and policies regarding charter schools. The
1371 composition of the review panel shall include individuals with
1372 experience in finance, administration, law, education, and

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1373 school governance, and individuals familiar with charter school
1374 construction and operation. The panel shall include two
1375 appointees each from the Commissioner of Education, the
1376 President of the Senate, and the Speaker of the House of
1377 Representatives. The Governor shall appoint three members of the
1378 panel and shall designate the chair. Each member of the panel
1379 shall serve a 1-year term, unless renewed by the office making
1380 the appointment. The panel shall make recommendations to the
1381 Legislature, to the Department of Education, to charter schools,
1382 and to school districts for improving charter school operations
1383 and oversight and for ensuring best business practices at and
1384 fair business relationships with charter schools.

1385 (b) The Legislature shall review the operation of charter
1386 schools during the 2010 ~~2005~~ Regular Session of the Legislature.

1387 (23) ANALYSIS OF CHARTER SCHOOL PERFORMANCE.--Upon receipt
1388 of the annual report required by paragraph (9) (m) ~~(l)~~, the
1389 Department of Education shall provide to the State Board of
1390 Education, the Commissioner of Education, the Governor, the
1391 President of the Senate, and the Speaker of the House of
1392 Representatives an analysis and comparison of the overall
1393 performance of charter school students, to include all students
1394 whose scores are counted as part of the statewide assessment
1395 program, versus comparable public school students in the
1396 district as determined by the statewide assessment program
1397 currently administered in the school district, and other
1398 assessments administered pursuant to s. 1008.22(3).

1399 (24) RULEMAKING.--The Department of Education, after
1400 consultation with school districts and charter school directors,

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1401 shall recommend that the State Board of Education adopt rules to
1402 implement specific subsections of this section. Such rules shall
1403 require minimum paperwork and shall not limit charter school
1404 flexibility authorized by statute.

1405 Section 2. Subsection (5) of section 218.39, Florida
1406 Statutes, is amended to read:

1407 218.39 Annual financial audit reports.--

1408 (5) At the conclusion of the audit, the auditor shall
1409 discuss with the chair of each local governmental entity or the
1410 chair's designee, or with the elected official of each county
1411 agency or with the elected official's designee, or with the
1412 chair of the district school board or the chair's designee, or
1413 with the chair of the board of the charter school or the chair's
1414 designee, or with the chair of the charter technical career
1415 center or the chair's designee, as appropriate, all of the
1416 auditor's comments that will be included in the audit report. If
1417 the officer is not available to discuss the auditor's comments,
1418 their discussion is presumed when the comments are delivered in
1419 writing to his or her office. The auditor shall notify each
1420 member of the governing body of a local governmental entity, ~~or~~
1421 district school board, or charter school for which deteriorating
1422 financial conditions exist that may cause a condition described
1423 in s. 218.503(1) to occur if actions are not taken to address
1424 such conditions.

1425 Section 3. Section 218.50, Florida Statutes, is amended to
1426 read:

1427 218.50 Short title.--Sections 218.50-218.504 may be cited
1428 as the "Local Governmental Entity, Charter School, and District

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1429 School Board Financial Emergencies Act."

1430 Section 4. Section 218.501, Florida Statutes, is amended
1431 to read:

1432 218.501 Purposes.--The purposes of ss. 218.50-218.504 are:

1433 (1) To promote the fiscal responsibility of local
1434 governmental entities, charter schools, and district school
1435 boards.

1436 (2) To assist local governmental entities, charter
1437 schools, and district school boards in providing essential
1438 services without interruption and in meeting their financial
1439 obligations.

1440 (3) To assist local governmental entities, charter
1441 schools, and district school boards through the improvement of
1442 local financial management procedures.

1443 Section 5. Subsections (1) and (2) of section 218.503,
1444 Florida Statutes, are amended, a new subsection (4) is added,
1445 and subsections (4) and (5) of that section are renumbered as
1446 subsections (5) and (6), respectively, to read:

1447 218.503 Determination of financial emergency.--

1448 (1) Local governmental entities, charter schools, and
1449 district school boards shall be subject to review and oversight
1450 by the Governor, charter school sponsor, or the Commissioner of
1451 Education, as appropriate, when any one of the following
1452 conditions occurs:

1453 (a) Failure within the same fiscal year in which due to
1454 pay short-term loans or failure to make bond debt service or
1455 other long-term debt payments when due, as a result of a lack of
1456 funds.

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1457 (b) Failure to pay uncontested claims from creditors
 1458 within 90 days after the claim is presented, as a result of a
 1459 lack of funds.

1460 (c) Failure to transfer at the appropriate time, due to
 1461 lack of funds:

1462 1. Taxes withheld on the income of employees; or
 1463 2. Employer and employee contributions for:

1464 a. Federal social security; or
 1465 b. Any pension, retirement, or benefit plan of an
 1466 employee.

1467 (d) Failure for one pay period to pay, due to lack of
 1468 funds:

1469 1. Wages and salaries owed to employees; or
 1470 2. Retirement benefits owed to former employees.

1471 (e) An unreserved or total fund balance or retained
 1472 earnings deficit, or unrestricted or total net assets deficit,
 1473 as reported on the balance sheet or statement of net assets on
 1474 the general purpose or fund financial statements, for which
 1475 sufficient resources of the local governmental entity, as
 1476 reported on the balance sheet or statement of net assets on the
 1477 general purpose or fund financial statements, are not available
 1478 to cover the deficit. Resources available to cover reported
 1479 deficits include net assets that are not otherwise restricted by
 1480 federal, state, or local laws, bond covenants, contractual
 1481 agreements, or other legal constraints. Fixed or capital assets,
 1482 the disposal of which would impair the ability of a local
 1483 governmental entity to carry out its functions, are not
 1484 considered resources available to cover reported deficits.

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(2) A local governmental entity shall notify the Governor and the Legislative Auditing Committee, a charter school shall notify the charter school sponsor and the Legislative Auditing Committee, and a district school board shall notify the Commissioner of Education and the Legislative Auditing Committee, when one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist the local governmental entity, charter school, or district school board. In addition, any state agency must, within 30 days after a determination that one or more of the conditions specified in subsection (1) have occurred or will occur if action is not taken to assist the local governmental entity, charter school, or district school board, notify the Governor, charter school sponsor, or the Commissioner of Education, as appropriate, and the Legislative Auditing Committee.

(4) Upon notification that one or more of the conditions in subsection (1) exist, the charter school sponsor or the sponsor's designee shall contact the charter school governing body to determine what actions have been taken by the charter school governing body to resolve the condition. The charter school sponsor has the authority to require and approve a financial recovery plan, to be prepared by the charter school governing body, prescribing actions that will cause the charter school to no longer be subject to this section. The Department of Education shall establish guidelines for developing such plans.

Section 6. Subsection (1) of section 218.504, Florida

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1513 Statutes, is amended to read:

1514 218.504 Cessation of state action.--The Governor or the
1515 Commissioner of Education, as appropriate, has the authority to
1516 terminate all state actions pursuant to ss. 218.50-218.504.
1517 Cessation of state action must not occur until the Governor or
1518 the Commissioner of Education, as appropriate, has determined
1519 that:

1520 (1) The local governmental entity, charter school, or
1521 district school board:

1522 (a) Has established and is operating an effective
1523 financial accounting and reporting system.

1524 (b) Has resolved the conditions outlined in s. 218.503(1).

1525 Section 7. Paragraph (e) of subsection (7) and subsection
1526 (8) of section 11.45, Florida Statutes, are amended to read:

1527 11.45 Definitions; duties; authorities; reports; rules.--

1528 (7) AUDITOR GENERAL REPORTING REQUIREMENTS.--

1529 (e) The Auditor General shall notify the Governor or the
1530 Commissioner of Education, as appropriate, and the Legislative
1531 Auditing Committee of any audit report reviewed by the Auditor
1532 General pursuant to paragraph (b) which contains a statement
1533 that a local governmental entity, charter school, or district
1534 school board has met one or more of the conditions specified in
1535 s. 218.503. If the Auditor General requests a clarification
1536 regarding information included in an audit report to determine
1537 whether a local governmental entity, charter school, or district
1538 school board has met one or more of the conditions specified in
1539 s. 218.503, the requested clarification must be provided within
1540 45 days after the date of the request. If the local governmental

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entity, charter school, or district school board does not comply with the Auditor General's request, the Auditor General shall notify the Legislative Auditing Committee. If, after obtaining the requested clarification, the Auditor General determines that the local governmental entity, charter school, or district school board has met one or more of the conditions specified in s. 218.503, he or she shall notify the Governor or the Commissioner of Education, as appropriate, and the Legislative Auditing Committee.

(8) RULES OF THE AUDITOR GENERAL.--The Auditor General, in consultation with the Board of Accountancy, shall adopt rules for the form and conduct of all financial audits performed by independent certified public accountants pursuant to ss. 215.981, 218.39, 1001.453, 1004.28, and 1004.70. The rules for audits of local governmental entities, charter schools, and district school boards must include, but are not limited to, requirements for the reporting of information necessary to carry out the purposes of the Local Governmental Entity, Charter School, and District School Board Financial Emergencies Act as stated in s. 218.501.

Section 8. Paragraph (a) of subsection (9) and paragraph (b) of subsection (11) of section 1002.32, Florida Statutes, are amended to read:

1002.32 Developmental research (laboratory) schools.--

(9) FUNDING.--Funding for a lab school, including a charter lab school, shall be provided as follows:

(a) Each lab school shall be allocated its proportional share of operating funds from the Florida Education Finance

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Program as provided in s. 1011.62 based on the county in which the lab school is located and the General Appropriations Act. The nonvoted ad valorem millage that would otherwise be required for lab schools shall be allocated from state funds. The required local effort funds calculated pursuant to s. 1011.62 shall be allocated from state funds to the schools as a part of the allocation of operating funds pursuant to s. 1011.62. Each eligible lab school in operation as of September 1, 2002, shall also receive a proportional share of the sparsity supplement as calculated pursuant to s. 1011.62. In addition, each lab school shall receive its proportional share of all categorical funds, with the exception of s. 1011.68, and new categorical funds enacted after July 1, 1994, for the purpose of elementary or secondary academic program enhancement. However, if a lab school, in the fulfillment of its requirements to have a representative student population pursuant to subsection (4), elects to provide student transportation, the lab school shall be eligible for funding pursuant to s. 1011.68. The sum of funds available as provided in this paragraph shall be included annually in the Florida Education Finance Program and appropriate categorical programs funded in the General Appropriations Act.

(11) EXCEPTIONS TO LAW.--To encourage innovative practices and facilitate the mission of the lab schools, in addition to the exceptions to law specified in s. 1001.23(2), the following exceptions shall be permitted for lab schools:

(b) With the exception of s. 1001.42(16), s. 1001.42 shall be held in abeyance, except that a lab school, in the

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1597 fulfillment of its requirements to have a representative student
 1598 population pursuant to subsection (4), may elect to provide
 1599 transportation in accordance with s. 1001.42(8). Reference to
 1600 district school boards in s. 1001.42(16) shall mean the
 1601 president of the university or the president's designee.

1602 Section 9. Subsection (3) of section 1003.05, Florida
 1603 Statutes, is amended to read:

1604 1003.05 Assistance to transitioning students from military
 1605 families.--

1606 (3) Dependent children of active duty military personnel
 1607 who otherwise meet the eligibility criteria for special academic
 1608 programs offered through public schools shall be given first
 1609 preference for admission to such programs even if the program is
 1610 being offered through a public school other than the school to
 1611 which the student would generally be assigned and the school at
 1612 which the program is being offered has reached its maximum
 1613 enrollment. If such a program is offered through a public school
 1614 other than the school to which the student would generally be
 1615 assigned, the parent or guardian of the student must assume
 1616 responsibility for transporting the student to that school. For
 1617 purposes of this subsection, special academic programs include
 1618 ~~charter schools,~~ magnet schools, advanced studies programs,
 1619 advanced placement, dual enrollment, and International
 1620 Baccalaureate.

1621 Section 10. Effective July 1, 2007, subsection (2) of
 1622 section 1012.74, Florida Statutes, is amended to read:

1623 1012.74 Florida educators professional liability insurance
 1624 protection.--

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1625 (2)(a) Educator professional liability coverage for all
1626 instructional personnel, including charter school instructional
1627 personnel, as defined by s. 1012.01(2), who are full-time
1628 personnel, as defined by the district school board policy, shall
1629 be provided by specific appropriations under the General
1630 Appropriations Act.

1631 (b) Educator professional liability coverage shall be
1632 extended at cost to all instructional personnel, including
1633 charter school instructional personnel, as defined by s.
1634 1012.01(2), who are part-time personnel, as defined by the
1635 district school board policy, and choose to participate in the
1636 state-provided program.

1637 (c) Educator professional liability coverage shall be
1638 extended at cost to all administrative personnel, including
1639 administrative personnel in charter schools, as defined by s.
1640 1012.01(3), who choose to participate in the state-provided
1641 program.

1642 Section 11. Section 1013.62, Florida Statutes, is amended
1643 to read:

1644 1013.62 Charter schools capital outlay funding.--

1645 (1) In each year in which funds are appropriated for
1646 charter school capital outlay purposes, the Commissioner of
1647 Education shall allocate the funds among eligible charter
1648 schools. To be eligible for a funding allocation, a charter
1649 school must be one of the following:

1650 (a) The same school that received capital outlay funding
1651 in the 2002-2003 fiscal year.

1652 (b) A charter school that is an expanded feeder pattern of

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1653 | a charter school that received capital outlay funding in the
1654 | 2002-2003 fiscal year.

1655 | (2) If an appropriation for charter school capital outlay
1656 | funds is less than the appropriation in the 2002-2003 fiscal
1657 | year, the funds shall be prorated among schools eligible
1658 | pursuant to subsection (1).

1659 | (3) If an appropriation for charter school capital outlay
1660 | funds is greater than the appropriation in the 2002-2003 fiscal
1661 | year, the funds shall be allocated to schools eligible pursuant
1662 | to subsection (1) and to charter schools that:

1663 | (a)1. Have been in operation for 3 or more years;

1664 | 2. Are Be an expanded feeder chain of a charter school
1665 | within the same school district that is currently receiving
1666 | charter school capital outlay funds; or

1667 | 3. Have been accredited by the Commission on Schools of
1668 | the Southern Association of Colleges and Schools.

1669 | (b) Have financial stability for future operation as a
1670 | charter school.

1671 | (c) Have received a school grade of "A" or "B," pursuant
1672 | to s. 1008.34, during at least 3 of the past 4 school years
1673 | ~~satisfactory student achievement based on state accountability~~
1674 | ~~standards applicable to the charter school.~~

1675 | (d) Have received final approval from its sponsor pursuant
1676 | to s. 1002.33 for operation during that fiscal year.

1677 | (e) Serve students in facilities that are not provided by
1678 | the charter school's sponsor.

1679 |
1680 | First priority for allocating the amount in excess of the

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1681 appropriation for the 2002-2003 fiscal year shall be to prorate
 1682 the excess funds among charter schools with long-term debt or
 1683 long-term leases to the extent that the initial allocation is
 1684 insufficient to provide one-fifteenth of the cost-per-student
 1685 station specified in s. 1013.64(6)(b) and second priority shall
 1686 be to other eligible charter schools. Prior to the release of
 1687 capital outlay funds to a school district on behalf of the
 1688 charter school, the Department of Education shall ensure that
 1689 the district school board and the charter school governing board
 1690 enter into a written agreement that includes provisions for the
 1691 reversion of any unencumbered funds and all equipment and
 1692 property purchased with public education funds to the ownership
 1693 of the district school board, as provided for in subsection (5)
 1694 ~~(3)~~, in the event that the school terminates operations. Any
 1695 funds recovered by the state shall be deposited in the General
 1696 Revenue Fund. A charter school is not eligible for a funding
 1697 allocation if it was created by the conversion of a public
 1698 school and operates in facilities provided by the charter
 1699 school's sponsor for a nominal fee or at no charge or if it is
 1700 directly or indirectly operated by the school district. Unless
 1701 otherwise provided in the General Appropriations Act, the
 1702 funding allocation for each eligible charter school shall be
 1703 determined by multiplying the school's projected student
 1704 enrollment by one-fifteenth of the cost-per-student station
 1705 specified in s. 1013.64(6)(b) for an elementary, middle, or high
 1706 school, as appropriate. If the funds appropriated are not
 1707 sufficient, the commissioner shall prorate the available funds
 1708 among eligible charter schools. However, no charter school or

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1709 charter lab school shall receive state charter school capital
 1710 outlay funds in excess of the one-fifteenth cost per student
 1711 station formula if the charter school's combination of state
 1712 charter school capital outlay funds, capital outlay funds
 1713 calculated through the reduction in the administrative fee
 1714 provided in s. 1002.33(20), and capital outlay funds allowed in
 1715 s. 1002.32(9)(e) and (h) exceeds the one-fifteenth cost per
 1716 student station formula. Funds shall be distributed on the basis
 1717 of the capital outlay full-time equivalent membership by grade
 1718 level, which shall be calculated by averaging the results of the
 1719 second and third enrollment surveys. The Department of Education
 1720 shall distribute capital outlay funds monthly, beginning in the
 1721 first quarter of the fiscal year, based on one-twelfth of the
 1722 amount the department reasonably expects the charter school to
 1723 receive during that fiscal year. The commissioner shall adjust
 1724 subsequent distributions as necessary to reflect each charter
 1725 school's actual student enrollment as reflected in the second
 1726 and third enrollment surveys. The commissioner shall establish
 1727 the intervals and procedures for determining the projected and
 1728 actual student enrollment of eligible charter schools.

1729 ~~(4)-(2)~~ A charter school's governing body may use charter
 1730 school capital outlay funds for the following purposes:

- 1731 (a) Purchase of real property.
- 1732 (b) Construction of school facilities.
- 1733 (c) Purchase, lease-purchase, or lease of permanent or
 1734 relocatable school facilities.
- 1735 (d) Purchase of vehicles to transport students to and from
 1736 the charter school.

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(e) Renovation, repair, furnishing, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer and purchasing equipment for such facilities.

Conversion charter schools may use capital outlay funds received through the reduction in the administrative fee provided in s. 1002.33(20) for renovation, repair, and maintenance of school facilities that are owned by the sponsor.

(5)~~(3)~~ When a charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with district public funds shall revert to the ownership of the district school board, as provided for in s. 1002.33(8)(e) and (f). In the case of a charter lab school, any unencumbered funds and all equipment and property purchased with university public funds shall revert to the ownership of the state university that issued the charter. The reversion of such equipment, property, and furnishings shall focus on recoverable assets, but not on intangible or irrecoverable costs such as rental or leasing fees, normal maintenance, and limited renovations. The reversion of all property secured with public funds is subject to the complete satisfaction of all lawful liens or encumbrances. If there are additional local issues such as the shared use of facilities or partial ownership of facilities or property, these issues shall be agreed to in the charter contract prior to the expenditure of funds.

(6)~~(4)~~ The Commissioner of Education shall specify procedures for submitting and approving requests for funding

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1765 under this section and procedures for documenting expenditures.

1766 ~~(7)-(5)~~ The annual legislative budget request of the
1767 Department of Education shall include a request for capital
1768 outlay funding for charter schools. The request shall be based
1769 on the projected number of students to be served in charter
1770 schools who meet the eligibility requirements of this section. A
1771 dedicated funding source, if identified in writing by the
1772 Commissioner of Education and submitted along with the annual
1773 charter school legislative budget request, may be considered an
1774 additional source of funding.

1775 ~~(8)-(6)~~ Unless authorized otherwise by the Legislature,
1776 allocation and proration of charter school capital outlay funds
1777 shall be made to eligible charter schools by the Commissioner of
1778 Education in an amount and in a manner authorized by subsections
1779 (2) and (3) ~~subsection (1)~~.

1780 ~~(7) Notwithstanding the provisions of this section,~~
1781 ~~beginning in the 2003-2004 fiscal year:~~

1782 ~~(a) If the appropriation for charter school capital outlay~~
1783 ~~funds is no greater than the 2002-2003 appropriation, the funds~~
1784 ~~shall be allocated according to the formula outlined in~~
1785 ~~subsection (1) to:~~

- 1786 ~~1. The same schools that received funding in 2002-2003.~~
- 1787 ~~2. Schools that are an expanded feeder pattern of schools~~
1788 ~~that received funding in 2002-2003.~~
- 1789 ~~3. Schools that have an approved charter and are serving~~
1790 ~~students at the start of the 2003-2004 school year and either~~
1791 ~~incurred long term financial obligations prior to January 31,~~
1792 ~~2003, or began construction on educational facilities prior to~~

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~~December 31, 2002.~~

~~(b) If the appropriation for charter school capital outlay funds is less than the 2002-2003 appropriation, the funds shall be prorated among the schools eligible in paragraph (a).~~

~~(c) If the appropriation for charter school capital outlay funds is greater than the 2002-2003 appropriation, the amount of funds provided in the 2002-2003 appropriation shall be allocated according to paragraph (a). First priority for allocating the amount in excess of the 2002-2003 appropriation shall be to prorate the excess funds among the charter schools with long-term debt or long-term lease to the extent that the initial allocation is insufficient to provide one fifteenth of the cost per student station specified in s. 1013.64(6)(b), and second priority shall be to other eligible charter schools.~~

Section 12. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2006.

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7119 PCB PKT 06-02 Student Athlete Recruiting
SPONSOR(S): PreK-12 Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: PreK-12 Committee	8 Y, 0 N	Beagle	Mizereck
1) Education Appropriations Committee		Eggers <i>ME</i>	Hamon <i>K.W.H.</i>
2) Education Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill requires the Florida High School Athletic Association (FHSA) to hold in abeyance certain newly adopted bylaws governing student athlete residence and transfer. The bill creates a task force to review issues concerning student athlete recruiting and make recommendations that preserve parents' rights to school choice and protect the integrity of Florida's interscholastic athletic programs.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an independent review of documented recruiting violations by FHSAA member schools.

The bill appropriates \$60,000 from the General Revenue Fund to OPPAGA to support the work of the Student Athlete Recruiting Task Force. The sum of \$50,000 is appropriated from the General Revenue Fund to OPPAGA to fund its independent review of secondary school recruiting violations.

The provisions of the bill are effective upon becoming law.

The bill has a minimal fiscal impact. See Fiscal Impact on State Government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government-- The bill requires the FHSA to hold in abeyance certain bylaws governing student athlete residence and transfer.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Founded in 1920, the FHSA is a non-profit organization that governs interscholastic athletics among Florida's public and private secondary schools. In 1997, the Florida Legislature enacted section 1006.20, F.S., which sets forth FHSA's organizational structure and governing authority in statute.

Section 1006.20, F.S. grants FHSA authority to adopt bylaws governing participation of member schools and individual student athletes unless specifically provided for in statute. Statute specifically requires FHSA bylaws governing student athlete residence and transfer to allow student athletes to be eligible for participation in athletics in the school the student first enrolls in each year.¹ Statute also requires FHSA to adopt bylaws that specifically prohibit recruiting of student athletes for athletic purposes.²

In January of 2006, the FHSA Representative Assembly voted to adopt revisions to sections 11.01, 11.02, 11.2, 11.3, and 11.4 of the FHSA bylaws governing student athlete residence and transfer. The revised bylaws are intended to curtail recruiting of student athletes by placing certain penalties on student athletes who transfer to another school. The revised bylaws apply to all transfers except a move by the student and all members of the student's household that necessitates a change in schools.³ According to the revised bylaws, student athletes who transfer to another school may not participate in varsity athletics for one calendar year but may participate in junior varsity athletics during this time.⁴ Upon the expiration of one calendar year, the student athlete is deemed to have established residency at the new school and may participate in varsity athletics. The revised bylaws contain several exceptions which, if applicable, allow student athletes to transfer without penalty. The receiving school must first make an application for waiver to the FHSA on the student's behalf. The FHSA commissioner reviews the waiver application to determine whether the exception applies and the waiver is justified. Subsequent procedures are available for appealing waiver denials and for undue hardship requests. This rule becomes effective for the 2007-2008 school year.

At its February 7, 2006 meeting, the PreK-12 Committee heard public testimony from proponents and opponents of the new FHSA residence and transfer bylaws. Opponents of the bylaws testified that the new rules violate the statutory provisions on residence and transfer bylaws contained in s.1006.20(2)(a) and impede parents' rights to school choice. Proponents of the bylaws stated that the rules were necessary to prevent student athletes from "shopping" for better teams and more advantageous opportunities for playing time, as well as curtailing illegal recruiting of student athletes.

¹ Section 1006.20(2)(a), F.S.

² Section 1006.20(2)(b), F.S.

³ Section 11.4, Proposed 2006 revisions to the Bylaws of the Florida High School Athletic Association, Inc.

⁴ Id.

Effect of Proposed Changes:

The bill requires FHSAA to hold in abeyance sections 11.01, 11.02, 11.2, 11.3, and 11.4 of the FHSAA bylaws until July 1, 2007. The bill creates a balanced task force comprised of home school and public and private secondary school proponents and opponents of the revised bylaws. The task force must make recommendations to the Governor and the Legislature that preserve parents' rights to school choice and protect the integrity of Florida's interscholastic athletic programs. The bill requires OPPAGA to provide administrative support and staff for the task force.

The bill also requires OPPAGA to conduct an independent review of secondary school recruiting violations among FHSAA member schools. The bill requires FHSAA to grant full access to its records for purposes of OPPAGA's review.

C. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law requiring FHSAA to hold in abeyance certain bylaws; creates a task force.

Section 2. Requires OPPAGA to review recruiting violations.

Section 3. Provides an appropriation.

Section 4. Provides an effective date upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**A. FISCAL IMPACT ON STATE GOVERNMENT:****1. Revenues:**

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill appropriates \$60,000 from the General Revenue Fund to OPPAGA to support the work of the Student Athlete Recruiting Task Force. The sum of \$50,000 is appropriated from the General Revenue Fund to OPPAGA to fund its independent review of secondary school recruiting violations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**1. Revenues:**

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

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A bill to be entitled

An act relating to student athlete recruiting; requiring the Florida High School Athletic Association to hold certain bylaws in abeyance; providing for creation of a task force to review student athlete recruiting issues; providing for task force membership and duties; requiring recommendations to the Governor and the Legislature; requiring the Office of Program Policy Analysis and Government Accountability to conduct a review of recruiting violations by Florida High School Athletic Association member schools; providing appropriations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The Florida High School Athletic Association shall, until July 1, 2007, hold in abeyance the 2006-2007 revisions to sections 11.01, 11.02, 11.2, 11.3, and 11.4, Bylaws of the Florida High School Athletic Association, relating to student athlete residence and transfer, adopted pursuant to s. 1006.20, Florida Statutes.

(2) A Student Athlete Recruiting Task Force shall be created to review issues concerning recruiting of secondary school student athletes. The task force shall make recommendations that preserve the parental right to school choice while protecting the integrity of Florida's interscholastic athletic programs. The task force shall consider:

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(a) The definition of recruiting.

(b) Current and proposed procedures governing recruiting of secondary school student athletes.

(c) Documented past recruiting practices and violations. Practices to be reviewed shall include, but not be limited to, the provision of tuition scholarships and other inducements, recruitment of foreign athletes, and active solicitation of student athletes and parents by school employees or boosters.

(d) The impact of student athlete recruiting rules on parental school choice.

(e) The relationship between student athlete transfers and recruiting, including the role of student athlete transfer rules in preventing recruiting.

(f) Measures for preventing improper student athlete recruiting and penalties for recruiting violations.

(3) The task force shall be comprised of representatives from home school and public and private secondary school proponents and opponents of the 2006-2007 revisions to the bylaws specified in subsection (1). The task force members shall be appointed as follows:

(a) Three proponents of the bylaws and three opponents of the bylaws each appointed by the President of the Senate.

(b) Three proponents of the bylaws and three opponents of the bylaws each appointed by the Speaker of the House of Representatives.

(c) A task force chair appointed by the Governor.

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55 (4) Task force members shall serve without compensation
56 but shall be reimbursed for per diem and travel expenses in
57 accordance with s. 112.061, Florida Statutes.

58 (5) The task force shall be staffed by the Office of
59 Program Policy Analysis and Government Accountability and be
60 monitored by the Department of Education. The chair shall
61 convene meetings of the task force as needed and shall ensure
62 that the recommendations are completed and forwarded on time.

63 (6) The task force shall hold its initial meeting not
64 later than June 1, 2006, and shall submit its recommendations to
65 the Governor, the President of the Senate, and the Speaker of
66 the House of Representatives by January 1, 2007. The task force
67 shall dissolve upon rendering its recommendations.

68 Section 2. The Office of Program Policy Analysis and
69 Government Accountability shall conduct an independent review of
70 secondary school recruiting violations among Florida High School
71 Athletic Association member schools and shall have full access
72 to Florida High School Athletic Association records for the
73 purpose of this review.

74 Section 3. The sum of \$60,000 is appropriated from the
75 General Revenue Fund to the Office of Program Policy Analysis
76 and Government Accountability for the 2006-2007 fiscal year to
77 support the work of the Student Athlete Recruiting Task Force.
78 The sum of \$50,000 is appropriated from the General Revenue Fund
79 to the Office of Program Policy Analysis and Government
80 Accountability for the 2006-2007 fiscal year to fund its
81 independent review of secondary school recruiting violations.

82 Section 4. This act shall take effect upon becoming a law.

BILL #: HB 7171 PCB CI 06-04 Charter Schools
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7171a.EDAS.doc
DATE: 3/31/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government- The bill establishes the Florida Schools of Excellence Commission under the supervision of the State Board of Education (SBE) for the development and support of charter schools. The bill provides the SBE with rulemaking authority and establishes the powers and duties of the commission. The bill would alleviate some of the administrative burden on school districts in relation to their duties to monitor charter schools. The bill increases the SBE's authority to resolve the appeals of denied charter school applicants by the commission, and also creates the authority for the commission to revoke its approval of a cosponsor after providing due process.

Safeguard individual liberty- The bill increases the options of charter school applicants to apply to the commission and cosponsoring entities. Charter school applicants will be able to access new sources of community support and expertise through this commission.

Empower families – The bill will likely lead to more charter schools in more areas and should provide increased educational options for parents and their school-aged children.

B. EFFECT OF PROPOSED CHANGES:

Background

Authorizers

Across the nation, states differ in their administration, implementation, and oversight of charter schools. Charter school authorizers are entities charged with oversight of individual charter schools. According to the Education Commission of the States (ECS) Issue Brief: *A State Policymaker's Guide to Alternative Authorizers of Charter Schools*, during the 2004-05 school year, there were over 800 charter school authorizers across the country, 700 of those being local school boards.¹ Alternative forms of charter school governance have received significant attention in the recent past due to the growing recognition that authorizers are vital components to the success of charter schools. Examples of alternative authorizers include independent special-purpose charter boards, intermediate or regional educational entities, and mayors.

The authorizer's functions include, but are not limited to, continuous monitoring of charter schools so that they are able to deal with issues that arise at an early stage, ensuring academic and financial accountability, offering technical assistance such as workshops or providing referrals, advocating to agencies on behalf of the charter school to reduce school burdens, and garnering community support.² According to ECS, during the development of initial state charter school laws, the charter school authorizer's role was overlooked.

Consequently, there is a growing recognition that effective authorizing is essential to the success of charter schools. According to ECS, many states are interested in utilizing entities other than local school boards to authorize charter schools because local school districts are often too constrained with managing, addressing, and correcting the problems of the existing public schools within their district.

¹ Hassel, Bryan, Todd Ziebarth and Lucy Steiner, *Education Commission of the States (ECS) Issue Brief: A State Policymaker's Guide to Alternative Authorizers of Charter Schools*, Denver, Co: Education Commission of the States, September 2005, p.2.

² Presentation by Mark Cannon, Executive Director of National Association of Charter School Authorizers (NASCA), to the Joint Hearing of Florida House Committee on Choice & Innovation and Pre-K-12 Education, February 8, 2005. PowerPoint presentation: *Authorizer Role in Increasing the Number of Quality Charter Schools*.

Local school district resources and personnel are limited; therefore, charter schools may not always receive the oversight and assistance that is needed to operate a successful charter school.

Florida Charter School Law

The Florida Legislature authorized charter schools in 1996. Currently, for the 2005-2006 school year, 92,158 students attend the 333 charter schools in Florida. As provided in section 1002.33, F.S., charter schools are nonsectarian public schools of choice that operate under a performance contract (a charter) with a public sponsor. Under Florida law, district school boards are the only entities that can sponsor charters, although upon appeal the State Board of Education may decide that the district school board must approve or deny an application.³ Additionally, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida are currently authorized to grant charters and sponsor development research (laboratory) schools created under section 1002.32, F.S.⁴

Pursuant to current law, charter schools enter into an agreement (charter) with the local district school board that addresses all major issues involving the operation of the charter school including, but not limited to, the school's mission, students served, curriculum, methods of student academic assessment, method for conflict resolution, financial and administrative management, and the term of the charter. Pursuant to section 1002.33(16), F.S., charter schools are free from many state regulations and mandates. However, they are still held accountable to the district sponsor that grants their application and to the parents who choose them for the academic and financial performance of the school and its students.

Identified Challenges

In spite of the tremendous popularity and growth of the number of charter schools within the state, they are still faced with several challenges that make their efforts to provide innovative and high quality educational options to parents more difficult. The challenges most often cited by charter schools include financial deficits, particularly among new schools, district provision of administrative services, and a lack of communication and support among charter schools and school districts.

The number of charter schools with a financial deficit⁵ increased from 18% in 1999-00 to 29% in 2002-03.⁶ New charter schools, schools that have been in existence for 1-2 years, have the highest deficit rate among charter schools at approximately 38%, whereas charter schools that have been in existence for 3-4 years and 5-7 years have a deficit rate of 20% and 21%, respectively.⁷

Charter schools face considerable financial difficulties related to start-up and facilities related costs, inaccurate enrollment projections, lack of financial management practices, and lack of economies of scale. These challenges put charter schools at risk for chronic financial deficits. Furthermore, the frequent lack of expertise in education budgeting and finance and lack of familiarity with government accounting conventions can lead to an inability to generate complete, accurate, and timely financial

³ Sections 1002.33(5),(6), F.S.

⁴ Section 1002.32(2), F.S., provides that for the purpose of state funding, Florida Agricultural and Mechanical University, Florida Atlantic University, Florida State University, and the University of Florida, and other universities approved by the State Board of Education and the Legislature are authorized to sponsor a lab school.

⁵ As determined in the Auditor General's Report Number 2005-054, charter schools operating with an end-of-year financial deficit are those charter schools that ended the year with a deficit of unreserved balance in their general fund (for statements using the governmental model) or deficit unrestricted net assets in their unrestricted fund (for statements using the not-for-profit model); Office of Program Policy Analysis and Government Accountability (OPPAGA) Report Number 05-11: *Charter School Application Requirements Are Reasonable; Financial Management Problematic*, March 2005, p. 8.

⁶ Presentation by Jane Fletcher, Staff Director, Education, of OPPAGA, to the Joint Hearing of Florida House Committee on Choice & Innovation and Pre-K-12 Education, February 8, 2005. PowerPoint presentation: *Charter School Review*.

⁷ *Id.*

data making the identification and assistance of charter schools with deteriorating financial conditions even more challenging.⁸

Under Florida law, a school district sponsor is required to provide the following administrative and educational services to charter schools: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services. The school district providing these services is authorized to withhold up to 5% of the charter school's per student funding as payment for the provision of these services.⁹ Many charter schools complain that some districts are not providing all of the statutorily required services, and districts often question whether the 5% administrative fee generates an adequate amount of money for school districts to fulfill their responsibilities to charter schools.

Perhaps the biggest challenge facing the success of charter schools today is communication among charter schools and school districts. School district attitudes toward charter schools as well as their provision of services and communication has, in many cases, improved since Florida's first charters were opened approximately ten years ago. Nevertheless, there may always be a certain degree of tension involved in the relationships of school districts and charter schools due to the inherently adversarial nature of such relationships.¹⁰ This tension is problematic given the fact that cooperation between the two parties is often critical in providing a high quality education to charter school children.

Effects of Proposed Changes

Establishment of a state-level charter school commission

The bill sets forth findings related to the contributions made by charter schools throughout the state, specifically, the valuable role charter schools play in providing high quality options to parents and their children, and the importance of charter schools in improving student performance and the quality of all public schools.

It states legislative intent to establish a state-level commission that will place its sole focus on the development and support of charter schools. It indicates legislative intent to seek the support and partnership of entities such as municipalities, universities, community colleges and regional educational consortia as cosponsors of charter schools for the purpose of accessing new sources of community support and expertise.

The bill establishes the Florida Schools of Excellence Commission (commission) under the supervision of the State Board of Education. The bill provides for startup funds to be appropriated by the legislature, but specifically authorizes the commission to seek and utilize funds through private donations as well as public and private grants to assist in the startup.

The bill provides that the commission be composed of seven members appointed by the Governor (3), the President of the Senate (2), and the Speaker of the House of Representatives (2), and requires that such appointments be made by September 1, 2006. The member terms are staggered one and two year terms initially, and then set at two years thereafter. A process for filling vacancies is also provided.

The bill requires monthly meetings of the commission and encourages the commission to schedule its first meeting no later than October 1, 2006. It provides for the appointment of an executive director to employ staff to handle the necessary administrative support for the commission.

⁸ *Id.* at 1.

⁹ Section 1002.33(20), F.S.

¹⁰ See Alachua County response to charter school survey conducted by the Florida Association of District School Superintendents

Commission powers and duties

The bill gives the commission the power to review applications and approve and sponsor charter schools. It also provides the commission with the power to terminate or not renew their sponsored charter schools. The requirements and process provided for the commission's review of charter applications is the same as that required of school districts' review of current charter applications as set forth in section 1002.33(6), F.S. The process and causes for termination are as set forth in section 1002.33(8), F.S., which is the current provision for termination and non-renewal of school district sponsored charter schools.

The bill empowers the commission to authorize municipalities, state universities, community colleges, and regional consortia to review, approve, and deny charter school applications. These entities would then act as cosponsors of charter schools. It also provides the commission with authority to terminate or not renew the cosponsors that it approves.

The bill indicates legislative intent to include municipalities, state universities, community colleges, and regional consortia as cosponsors of charter schools for the purpose of accessing the type of community support and resources that such entities have to offer. In setting forth the duties of the commission the bill specifically requires that the commission's cosponsoring relationship with state universities and community colleges allow for dual enrollment and a determination of the feasibility of cooperating with Centers for Autism and Related Disabilities to provide high quality educational options to parents of autistic children.¹¹

The bill sets forth numerous duties of the commission aimed at providing greater expertise in approving and developing high quality charter schools, providing responsive academic and budgetary technical support, promoting accountability, seeking private funding, and alleviating administrative burdens of school districts that currently sponsor charter schools. It incorporates the monitoring requirements of section 1002.33(5)(b), F.S., and the administrative services requirements of section 1002.33(20), F.S. for charter schools approved by the commission.¹²

Although the bill provides that cosponsors would be primarily responsible for the provision of administrative services to the charter schools they sponsor, the duties of the commission indicate an intent that the commission act as a partner with its cosponsor in providing technical assistance and access to expertise at a state and national level regarding matters such as Exceptional Student Education services, English for Speakers of Other Languages, and other specialized areas.

Cosponsor applications

The bill requires that the commission begin accepting applications from cosponsors that wish to submit them no later than January 31, 2007. It provides the commission with a 90-day timeline to review and approve or deny the application, though this 90-day requirement may be waived by the applicant. The January 31, 2007 starting date is intended to allow cosponsors to be approved to begin accepting charter school applications on or before September 1, 2007, as set forth in section 1002.33(6)(b), F.S.

The bill requires that the commission limit the number of charter schools that a cosponsor may approve. However, the cosponsor may apply to raise this limit at some point in the future. This will ensure that a cosponsor is able to demonstrate that it has the capacity, expertise, and commitment to

¹¹ Known as CARD centers, these entities are operate through several universities throughout the state, are staffed by individuals with superior expertise in dealing with autistic children, and are established under section 1004.55, F.S., to research and provide nonresidential assistance and training to parents in diagnosing, treating and educating their autistic children.

¹² As noted above, these services include: contract management services, full-time equivalent and data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services.

approve, develop and maintain high quality charter schools before allowing the number of its charter schools to increase.

The bill requires that in order to be approved as a cosponsor, the eligible entity must provide evidence in its application that it has, or can contractually provide, the capacity and expertise necessary to provide what is required to sponsor a charter school. It requires a demonstrated commitment to raising and contributing financial resources, providing equal access to all children, maintaining a diverse student population, and focusing on low-income, low performing and underserved children. It requires articulated accountability goals and a policy to prevent conflicts of interest.

The bill states that the commission's decision whether to approve or deny a cosponsor application is not subject to the processes set forth in the Administrative Procedures Act¹³, but is instead subject to the same process set out in the current charter school statute for the appeal of charter application denials to the State Board of Education.

Cosponsor agreements

The bill requires that the commission and its cosponsors enter into an agreement which sets forth rights and obligations, many of which are set forth in the application requirements noted above. The agreement must include explanations of how facilities and assets of dissolved charter schools will be handled, and a provision requiring that the cosponsor report student enrollment to the local school district school board for funding purposes. The agreement must also include provisions requiring cosponsors to annually appear before and provide a report to the commission on its charter schools and to assist in providing commission reports to the State Board of Education.

The bill provides for discretion on the part of the commission in defining additional reasonable terms within the agreement that it deems are necessary given the unique characteristics of the particular sponsoring entity. Unique characteristics would be likely to exist in any cosponsor, and is particularly likely with different municipalities. Such characteristics may include the size of the city, the demographics of its student population, or even the demographics of the local school district and how a municipal charter might affect other schools within that school district. This provision would provide the commission with discretion in crafting an agreement that meets the unique needs of the cosponsor while still protecting the welfare and interests of children in the surrounding schools.

The bill prohibits any potential cosponsor from receiving applications prior to officially executing its cosponsor agreement with the commission. It states that the agreement must be proposed and negotiated within six months of approval of the cosponsor application as currently provided in section 1002.33(6)(h), F.S.,¹⁴ and that it shall be attached to and govern any charter school contract entered into by the cosponsor.

Cosponsor revocation

The bill states that the commission may revoke its approval of a cosponsor after providing due process in the form of notice and a hearing as set forth in State Board of Education rule. The approval must be revoked if, after the hearing, the commission finds that the cosponsor is not in compliance, or is not willing to comply with its cosponsor agreement.

The commission is authorized to immediately assume sponsorship of any schools that were sponsored by the revoked cosponsor. The assumption of sponsorship may remain permanent if the commission so desires, or the commission may work with the charter school and the local school district to facilitate application and approval of a charter with the district.

¹³ Ch. 120, F.S.

¹⁴ The bill cross references section 1002.33(6)(i), F.S., due to the fact that Section 2 of the bill rennumbers the relevant paragraph.

Charter school applications

The bill states that charter applications that are submitted to the commission or any of its approved cosponsors must contain the same information as required in section 1002.33(6), F.S. It also provides that such applications will be reviewed and approved or rejected in accordance with the terms set forth in current charter school law.¹⁵ It also sets forth timelines by which the applications must be received and reviewed, and provides for an appeal process for application denials, including review by the Charter School Appeal Commission and the State Board of Education.

The bill amends current law regarding application process and review so that in order to exercise the right to appeal a school district's application denial, a charter school must have submitted the same or a substantially similar application to the commission or one of its cosponsors. If the applicant has not yet been denied by the commission or one of its cosponsors it must file the application with one of those entities the following August and if it is denied again, the applicant will then have thirty days to file its appeal of the district's denial. This provision and the existence of multiple authorizers should significantly reduce the number of appeals as well as reducing the likelihood that a district will be forced to sponsor a charter applicant that it has rejected.

The bill allows currently existing charter schools that have been approved and operating under a charter with a school district to apply to and enter into a new contract with the commission or one of its cosponsors. However, the bill clarifies that only charter schools whose contract has expired or whose school district sponsor agrees to rescind a current contract may enter into a new contract with the commission or a cosponsor. Finally, the bill provides that a charter school that switches sponsors must be allowed to continue to utilize the facilities and equipment it has been using under its contract with the school district.

Incorporation of the charter school statute

The bill incorporates by reference, sections 1002.33(7)-(12), (14), and (16)-(19), F.S. Section 1002.33(7), F.S., deals with the numerous items and issues that must be included in a charter contract between charter schools and their sponsors. These include issues relating to mission, curriculum, instructional strategies, student performance expectations, admissions, financial and administrative management, term of the contract, facilities, teacher qualifications, governance structure, renewal, and modification.

Section 1002.33(8), F.S., sets forth the causes by which a charter contract may be revoked or not be renewed. The causes include student performance, fiscal mismanagement, violations of law and other good cause. It also provides for 90-day notice by the sponsor prior to non-renewal or revocation with the opportunity for an informal hearing upon receipt of the notice. There is also a provision for immediate revocation for good cause or to protect the health, safety and welfare of the students. Finally, this incorporated subsection provides for the disposition of remaining debts and assets of the charter school upon termination or non-renewal.

Section 1002.33(9), F.S., provides requirements for charter schools, including accountability, compliance with laws and rules, annual financial audits, and other financial reporting requirements. It also requires the governing board of the charter school to exercise oversight, and report to its sponsor regarding student achievement data, financial status, facilities and personnel issues.

Section 1002.33(10), F.S., addresses the eligibility of students for enrollment at a charter school. It requires that the charter school be open to any child residing in the district and requires that random selection process be implemented if the number of applicants exceed the number of seats available.

¹⁵ Section 1002.33(6), F.S., provides for the application process and review of charter schools.

This incorporated subsection allows enrollment preference in somewhat limited circumstances and allows a charter school to limit its enrollment to target a certain student population by age, students considered to be dropout risks, charter schools in the workplace or municipality, students within a reasonable distance of the charter school, students who meet certain academic, artistic, or other eligibility standards, and students from a feeder pattern of the charter school.

Section 1002.33(11), F.S., allows charter school students to participate in interscholastic extracurricular activities at the public school to which the student would be otherwise assigned to attend.

Section 1002.33(12), F.S., addresses charter school employees providing that a charter school may select its own employees and that such employees have the option to bargain collectively. It provides options as to the organization of such employees and allows them to take leave from employment with a school district while employed at a charter school without forfeiting seniority and other benefits of school district employment. It further requires that charter school teachers be certified, that charter schools and their employees are governed by the provisions of section 768.28, F.S., relating to sovereign immunity, and that employees of charter schools that are considered public employers may participate in the Florida Retirement System.

Section 1002.33(14), F.S., requires that any arrangement entered into by a charter school to borrow or secure funds must indemnify the state and the school district from liability and clarifies that such debts not obligations of the state or school district.

Section 1002.33(16), F.S., provides exemption for charter schools from numerous statutory requirements in the school code. Statutes relating to student assessment and school grades, the provision of services to student with disabilities, civil rights, and health, safety and welfare, and open meeting and public records continue to apply to charter schools.

Section 1002.33(17), F.S., provides for funding of students in charter schools. It requires that charter schools report student enrollment to their sponsor and sets forth a per student funding formula that includes Florida Education Finance Program funds, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy. It specifies an eligible charter school's entitlement to federal funds for provision of services to eligible students. It requires timely reimbursement and processing of paperwork required to access federal funding by the school district and provides for payment of interest on late reimbursements.

Section 1002.33(18), F.S., sets forth standards for charter school facilities. It specifies that charter schools may choose whether to comply with the Florida Building Code or the State Requirements for Educational Facilities. It requires charter school facilities' compliance with the Florida Fire Prevention Code, exempts them from ad valorem taxes, permit fees, building licenses, impact fees, and service availability fees. It requires that school district surplus property be made available for use by charter schools and allows the designation of impact fees for charter school facilities where the school facility is created to mitigate the impact of development.

Section 1002.33(19), F.S., provides that charter schools are eligible for charter school capital outlay funding pursuant to section 1013.62, F.S.

Charter school information and annual report

The bill requires that the commission be a source of information for parents throughout the state by maintaining information technology to allow parents to make informed educational choices for their children. It also requires the commission to provide an annual report to the State Board of Education regarding the academic performance and fiscal responsibility of all charter schools and cosponsors approved under this new section. Finally, it provides the State Board of Education with rulemaking authority necessary to facilitate the implementation of this new section.

C. SECTION DIRECTORY:

Section 1. Creates section 1002.335, F.S.; establishing the Florida Schools of Excellence Commission as a charter authorizing entity; providing legislative findings and intent; providing startup funds; providing for membership and powers and duties of the Commission; requiring collaboration with identified entities for cosponsoring of charter schools; providing approval requirements of cosponsors; providing components for and revocation of cosponsor agreements; providing for charter application and review procedures; authorizing existing charter schools to apply; providing for application of specified provisions of law; requiring access to information by parents; requiring annual report by Commission; requiring rulemaking.

Section 2. Amends section 1002.33, F.S., providing requirements for right to appeal application denial; revising provisions relating to student funding; revising provisions related to facilities.

Section 3. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not impact state government revenues.

2. Expenditures:

The bill will require an appropriation for startup funds for the commission and its staff for the 2006-2007 fiscal year.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not impact local government revenues.

2. Expenditures:

The bill would likely impact expenditures of municipalities and community colleges that chose to become cosponsors. The impact is indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would not have a significant impact on the private sector.

D. FISCAL COMMENTS:

The bill would impact school districts to the extent that they would no longer be able to withhold the 5% administrative fee for providing services to charter schools that chose to contract with the commission or one of its cosponsors. However, the costs saved from no longer being responsible to provide those services should balance this reduction in revenue.

The bill establishes funding of a new state entity that will have immediate staffing and location needs. At this time, it is indeterminate what the cost of these needs will be. The staffing needs of the commission are likely to increase as the number of charter schools approved under the authority of the commission and its cosponsors grows.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Section 4 of Article 9 of the State Constitution states that each county shall constitute a school district and that the district school board "shall operate, control and supervise all free public schools within the school district..." The bill allows an independent board or cosponsors in the form of municipalities, universities, community colleges, and regional consortia to authorize charter schools.

However, Section 2 of Article 9 of the State Constitution provides that the State Board of Education shall "have such supervision of the system of free public education as is provided by law." This provision requires that the State Board of Education must supervise public education in the manner and to the extent provided by the Legislature. Such language also suggests flexibility in the way the Legislature may determine how the State Board must exercise such supervision.

The Legislature has previously exercised this flexibility with the establishment of other public schools that are not under the control of school districts, including charter lab schools established under section 1002.32, F.S., the Florida Virtual School, and the Florida School for the Deaf and Blind. These other examples reflect the Legislature's authority to direct the State Board of Education's supervision of the overall "system of free public education" under Section 2 of Article 9, as opposed to the traditional school district-controlled "free public schools" referenced more specifically in Section 4 of Article 9.

The bill provides for a statewide commission that is supervised and appointed by the State Board of Education. The commission is specifically required to report to the State Board of Education regarding the academic performance and fiscal responsibility of all charter schools approved and maintained by the commission or one of its cosponsors. The commission's rulings regarding revocation or non-renewal of cosponsors and charter schools may be appealed to the State Board of Education.

Furthermore, there is a clear nexus between school districts and municipalities, universities, community colleges, and regional consortia when it comes to the provision of education. For example section 1012.98(5), F.S., provides that school districts may coordinate their professional development programs for teachers with an educational consortium, or with a community college or university. Section 1001.42, F.S., allows districts to participate in educational consortia that are designed to provide joint programs and services to cooperating school districts.

Additionally, section 1013.355, F.S., authorizes the creation of educational facilities benefit districts pursuant to an interlocal agreement between the district school board and a municipality or other eligible local government entity. Section 1002.35, F.S., directs that the New World School of the Arts is assigned to Miami-Dade Community College, the Dade County School District, and one or more universities designated by the State Board of Education.

These are just some of the examples that provide evidence of the relationship that districts share with municipalities, universities, community colleges, and regional consortia with regard to public education throughout the state and should provide support for the proposition that further involvement by such entities would not create a conflict with Article 9 of the Constitution.

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority to the State Board of Education.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The President of the Senate and the Speaker of the House may recommend, but may not determine or dictate who may be appointed to a board or commission that is empowered to act in more than just an advisory capacity. Consequently, the bill will need to be amended to require the recommendation of at least two or more nominees for each of the member positions that are appointed from the President's and the Speaker's recommendations.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Choice and Innovation Committee adopted two amendments and reported the PCB favorably as amended. The amendments did the following:

Amendment 1 - Clarifies that the members of the commission are appointed by the State Board of Education from recommendations provided for each vacancy by the Governor, President of the Senate and the Speaker of the House respectively.

Amendment 2 - Clarifies that current charter schools with district sponsorship may only apply to the new commission or a cosponsor if its contract with the district is expiring or if the district agrees to let them out of the contract. The amendment also clarifies that conversion charter schools may only submit an application to the commission or cosponsor with permission of the school district and gives the district control over disposition of the facilities and equipment assuming such consent is given.

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1 A bill to be entitled

2 An act relating to charter schools; creating s. 1002.335,

3 F.S.; providing findings and intent; establishing the

4 Florida Schools of Excellence Commission as a charter

5 school authorizing entity; providing for startup funds;

6 providing for membership of the commission; providing

7 powers and duties of the commission, including serving as

8 a sponsor of charter schools, approving certain entities

9 to act as cosponsors, approving or denying applications

10 for Florida Schools of Excellence (FSE) charter schools,

11 and developing standards for and evaluating the

12 performance of charter schools; requiring collaboration

13 with municipalities, state universities, community

14 colleges, and regional educational consortia as cosponsors

15 for FSE charter schools; providing requirements for

16 approval of cosponsors by the commission; providing

17 components of required cosponsor agreements; providing

18 causes for revocation of approval of a cosponsor;

19 providing for FSE charter school application and review

20 procedures; authorizing existing charter schools to apply

21 as FSE charter schools; providing for application of

22 specified provisions of law; requiring access to

23 information by parents; requiring the commission to submit

24 an annual report; requiring rulemaking; amending s.

25 1002.33, F.S.; providing requirements with respect to the

26 right to appeal a charter school application denial;

27 revising provisions relating to reporting of charter

28 school student enrollment for purposes of funding;

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revising requirements relating to charter school facilities created to mitigate a certain educational impact; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1002.335, Florida Statutes, is created to read:

1002.335 Florida Schools of Excellence Commission.--

(1) FINDINGS.--The Legislature finds that:

(a) Charter schools are a critical component in the state's efforts to provide efficient and high-quality schools within the state's uniform system of public education.

(b) Charter schools provide valuable educational options and innovative learning opportunities while expanding the capacity of the state's system of public education and empowering parents with the ability to make choices that best fit the individual needs of their children.

(c) The growth of charter schools in the state has contributed to enhanced student performance, greater efficiency, and the improvement of all public schools.

(d) The greatest challenges to the continued development and success of uniform, high-quality charter schools are administrative issues, accountability issues, and a lack of sufficient communication and support from sponsors.

(2) INTENT.--It is the intent of the Legislature that:

(a) There be established an independent, state-level commission whose primary focus is the development and support of

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57 charter schools in order to better meet the growing and diverse
58 needs of some of the increasing number and array of charter
59 schools in the state and to further ensure that charter schools
60 of the highest academic quality are approved and supported
61 throughout the state in an efficient manner.

62 (b) New sources of community support in the form of
63 municipalities with knowledge of the unique needs of a
64 particular community or state universities, community colleges,
65 or regional educational consortia with special education
66 expertise should be authorized to participate in developing and
67 supporting charter schools that maximize access to a wide
68 variety of high-quality educational options for all students
69 regardless of disability, race, or socioeconomic status.

70 (3) FLORIDA SCHOOLS OF EXCELLENCE COMMISSION.--

71 (a) The Florida Schools of Excellence Commission is
72 established as an independent, state-level charter school
73 authorizing entity working in collaboration with the Department
74 of Education and under the supervision of the State Board of
75 Education. Startup funds necessary to establish and operate the
76 commission may be received through private contributions and
77 federal and other institutional grants through the Grants and
78 Donations Trust Fund and the Educational Aids Trust Fund housed
79 within the department in addition to funds provided in the
80 General Appropriations Act. The department shall assist in
81 securing federal and other institutional grant funds to
82 establish the commission.

83 (b) The commission shall be appointed by the State Board
84 of Education and shall be composed of three appointees

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85 recommended by the Governor, two appointees recommended by the
 86 President of the Senate, and two appointees recommended by the
 87 Speaker of the House of Representatives. The Governor, the
 88 President of the Senate, and the Speaker of the House of
 89 Representatives shall each recommend a list of no fewer than two
 90 nominees for any appointment to the commission. The appointments
 91 shall be made as soon as feasible but no later than September 1,
 92 2006. Each member shall serve a term of 2 years; however, for
 93 the purpose of providing staggered terms, of the initial
 94 appointments, three members shall be appointed to 1-year terms
 95 and four members shall be appointed to 2-year terms. Thereafter,
 96 each appointee shall serve a 2-year term unless the State Board
 97 of Education, after review, extends the appointment. If a
 98 vacancy occurs on the commission, it shall be filled by the
 99 State Board of Education from a recommendation by the
 100 appropriate authority according to the procedure set forth in
 101 this paragraph. The members of the commission shall annually
 102 vote to appoint a chair and a vice chair.

103 (c) The commission is encouraged to convene its first
 104 meeting no later than October 1, 2006, and, thereafter, shall
 105 meet each month at the call of the chair or upon the request of
 106 four members of the commission. Four members of the commission
 107 shall constitute a quorum.

108 (d) The commission shall appoint an executive director who
 109 shall employ such staff as is necessary to perform the
 110 administrative duties and responsibilities of the commission.

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(e) The members of the commission shall not be compensated for their services on the commission but may be reimbursed for per diem and travel expenses pursuant to s. 112.061.

(4) POWERS AND DUTIES.--

(a) The commission shall have the power to:

1. Authorize and act as a sponsor of charter schools, including the approval or denial of charter school applications pursuant to subsection (8) and the nonrenewal or termination of charter schools pursuant to s. 1002.33(8).

2. Authorize municipalities, state universities, community colleges, and regional educational consortia to act as cosponsors of charter schools, including the approval or denial of cosponsor applications pursuant to State Board of Education rule and subsection (5) and the revocation of approval of cosponsors pursuant to State Board of Education rule and subsection (7).

3. Approve or deny Florida Schools of Excellence (FSE) charter school applications and renew or terminate charters of FSE charter schools.

(b) The commission shall have the following duties:

1. Review charter school applications and assist in the establishment of Florida Schools of Excellence (FSE) charter schools throughout the state. An FSE charter school shall exist as a public school within the state as a component of the delivery of public education within Florida's K-20 education system.

2. Develop, promote, and disseminate best practices for charter schools and charter school sponsors in order to ensure

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that high-quality charter schools are developed and
incentivized. At a minimum, the best practices shall encourage
the development and replication of academically and financially
proven charter school programs.

3. Develop, promote, and require high standards of
accountability for any school that applies and is granted a
charter under this section.

4. Monitor and annually review and evaluate the
performance of the charter schools it sponsors and hold the
schools accountable for their performance.

5. Report the student enrollment in each of its sponsored
charter schools to the district school board of the county in
which the school is located.

6. Work with its cosponsors to monitor the financial
management of each FSE charter school.

7. Direct charter schools and persons seeking to establish
charter schools to sources of private funding and support.

8. Actively seek, with the assistance of the department,
supplemental revenue from federal grant funds, institutional
grant funds, and philanthropic organizations. The commission
may, through the department's Grants and Donations Trust Fund,
receive and expend gifts, grants, and donations of any kind from
any public or private entity to carry out the purposes of this
section.

9. Review and recommend to the Legislature any necessary
revisions to statutory requirements regarding the qualification
and approval of municipalities, state universities, community

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colleges, and regional educational consortia as cosponsors for FSE charter schools.

10. Review and recommend to the Legislature any necessary revisions to statutory requirements regarding the standards for accountability and criteria for revocation of approval of cosponsors of FSE charter schools.

11. Assist its cosponsors and FSE charter schools in cooperating with district school boards to allow the charter schools to utilize unused space within district public schools.

12. Collaborate with municipalities, state universities, community colleges, and regional educational consortia as cosponsors for FSE charter schools for the purpose of providing the highest level of public education to low-income, low-performing, and underserved student populations. Such collaborations shall:

a. Allow state universities and community colleges that cosponsor FSE charter schools to enable students attending a charter school to take college courses and receive high school and college credit for such courses.

b. Be used to determine the feasibility of opening charter schools for children with autism that work with and utilize the specialized expertise of the Centers for Autism and Related Disabilities established and operated pursuant to s. 1004.55.

13. Support municipalities when the mayor or chief executive, through resolution passed by the governing body of the municipality, expresses an intent to cosponsor and establish charter schools within the municipal boundaries.

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14. Meet the needs of charter schools and school districts by uniformly administering high-quality charter schools, thereby removing administrative burdens from the school districts.

15. Work with school districts to assist them in effectively providing administrative services to their charter schools.

16. Perform all of the duties of sponsors set forth in s. 1002.33(5)(b) and (20).

(5) APPROVAL OF COSPONSORS.--

(a) The commission shall begin accepting applications by municipalities, state universities, community colleges, and regional educational consortia no later than January 31, 2007. The commission shall have 90 days from receipt of an application under this paragraph to approve or deny the application unless the 90-day period is waived by the applicant.

(b) The commission shall limit the number of charter schools that a cosponsor may approve pursuant to its review of the cosponsor's application under paragraph (c). Upon application by the cosponsor and review by the commission of the performance of a cosponsor's current charter schools, the commission may approve a cosponsor's application to raise the limit previously set by the commission.

(c) Any entity set forth in paragraph (a) that is interested in becoming a cosponsor pursuant to this section shall prepare and submit an application to the commission that provides evidence that the entity:

1. Has the necessary staff and infrastructure or has established the necessary contractual or interagency

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relationships to ensure its ability to handle all of the
administrative responsibilities required of a charter school
sponsor as set forth in s. 1002.33(20).

2. Has the necessary staff expertise and infrastructure or
has established the necessary contractual or interagency
relationships to ensure that it will approve and is able to
develop and maintain charter schools of the highest academic
quality.

3. Has and is committed to providing and pursuing the
necessary public and private financial resources and staff to
ensure that it can monitor and support charter schools that are
economically efficient and fiscally sound.

4. Is committed to providing equal access to all students
and to maintaining a diverse student population within its
charter schools.

5. Is committed to focusing on low-income, low-performing,
and underserved student populations.

6. Has articulated annual goals and expected outcomes for
its charter schools as well as the methods and plans by which it
will achieve those goals and outcomes.

7. Has policies in place to protect its cosponsoring
practices from conflicts of interest.

(d) The commission's decision to deny an application or to
revoke approval of a cosponsor pursuant to subsection (7) is not
subject to chapter 120 and may be appealed to the State Board of
Education pursuant to s. 1002.33(6).

(6) COSPONSOR AGREEMENT.--

248 (a) Upon approval of a cosponsor, the commission and the
249 cosponsor shall enter into an agreement that defines the
250 cosponsor's rights and obligations and includes the following:

251 1. An explanation of the personnel, contractual and
252 interagency relationships, and potential revenue sources
253 referenced in the application as required in paragraph (5)(c).

254 2. Incorporation of the requirements of equal access for
255 all students, including any plans to provide transportation
256 reasonably necessary to provide access to as many students as
257 possible.

258 3. Incorporation of the requirement to focus on low-
259 income, low-performing, and underserved student populations.

260 4. An explanation of the goals and expected outcomes for
261 the cosponsor's charter schools and the method and plans by
262 which they will be achieved as referenced in the application.

263 5. The conflict-of-interest policies referenced in the
264 application.

265 6. An explanation of the disposition of facilities and
266 assets upon termination and dissolution of a charter school
267 approved by the cosponsor.

268 7. A provision requiring the cosponsor to annually appear
269 before the commission and provide a report as to the information
270 provided pursuant to s. 1002.33(9)(1) for each of its charter
271 schools.

272 8. A provision requiring that the cosponsor report the
273 student enrollment in each of its sponsored charter schools to
274 the district school board of the county in which the school is
275 located.

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276 9. A provision requiring that the cosponsor work with the
277 commission to provide the necessary reports to the State Board
278 of Education.

279 10. Any other reasonable terms deemed appropriate by the
280 commission given the unique characteristics of the cosponsor.

281 (b) No cosponsor may receive applications for charter
282 schools until a cosponsor agreement with the commission has been
283 approved and signed by the commission and the appropriate
284 individuals or governing bodies of the cosponsor.

285 (c) The cosponsor agreement shall be proposed and
286 negotiated pursuant to the timeframes set forth in s.
287 1002.33(6)(i).

288 (d) The cosponsor agreement shall be attached to and shall
289 govern all charter school contracts entered into by the
290 cosponsor.

291 (7) CAUSES FOR REVOCATION OF APPROVAL OF A COSPONSOR.--If
292 at any time the commission finds that a cosponsor is not in
293 compliance, or is no longer willing to comply, with its contract
294 with a charter school or with its cosponsor agreement with the
295 commission, the commission shall provide notice and a hearing in
296 accordance with State Board of Education rule. If after a
297 hearing the commission confirms its initial finding, the
298 commission shall revoke the cosponsor's approval. The commission
299 may assume sponsorship over any charter school sponsored by the
300 cosponsor at the time of revocation. Thereafter, the commission
301 may assume permanent sponsorship over such school or may direct
302 the school's governing body to apply to another cosponsor or to
303 the appropriate district school board for sponsorship.

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(8) CHARTER SCHOOL APPLICATION AND REVIEW.--Charter school applications submitted to the commission or to a cosponsor approved by the commission pursuant to subsection (5) shall be subject to the same requirements set forth in s. 1002.33(6). The commission or cosponsor shall receive and review all applications for FSE charter schools according to the provisions of s. 1002.33(6)(b). All references to a district school board in s. 1002.33(6)(b) shall refer to the commission or its cosponsors that receive applications for review.

(9) APPLICATIONS OF EXISTING CHARTER SCHOOLS.--

(a) An application may be submitted pursuant to this section by an existing charter school approved by a district school board provided that the obligations of its charter contract with the district school board will expire prior to entering into a new charter contract with the commission or one of its cosponsors. A district school board may agree to rescind or waive the obligations of a current charter contract to allow an application to be submitted by an existing charter school pursuant to this section. A charter school that changes sponsors pursuant to this subsection shall be allowed to continue the use of all facilities, equipment, and other assets it owned or leased prior to the expiration or rescission of its contract with a district school board sponsor.

(b) An application to the commission or one of its cosponsors by a conversion charter school may only be submitted upon consent of the district school board. In such instance, the district school board may retain the facilities, equipment, and other assets of the conversion charter school for its own use or

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agree to reasonable terms for their continued use by the
conversion charter school.

(10) APPLICATION OF CHARTER SCHOOL STATUTE.--The
provisions of s. 1002.33(7)-(12), (14), and (16)-(19) shall
apply to the commission, cosponsors, and charter schools
approved pursuant to this section.

(11) ACCESS TO INFORMATION.--The commission shall provide
maximum access to information to all parents in the state. It
shall maintain information systems, including, but not limited
to, a user-friendly Internet website, that will provide
information and data necessary for parents to make informed
decisions. At a minimum, the commission must provide parents
with information on its accountability standards, links to
schools of excellence throughout the state, and public education
programs available in the state.

(12) ANNUAL REPORT.--Each year, the chair of the
commission shall appear before the State Board of Education and
submit a report regarding the academic performance and fiscal
responsibility of all charter schools and cosponsors approved
under this section.

(13) IMPLEMENTATION.--The State Board of Education shall
adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to
facilitate the implementation of this section.

Section 2. Paragraphs (d), (e), (f), (g), and (h) of
subsection (6) of section 1002.33, Florida Statutes, are
redesignated as paragraphs (e), (f), (g), (h), and (i),
respectively, a new paragraph (d) is added to that subsection,

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and paragraph (a) of subsection (17) and paragraph (f) of subsection (18) of that section are amended, to read:

1002.33 Charter schools.--

(6) APPLICATION PROCESS AND REVIEW.--Beginning September 1, 2003, applications are subject to the following requirements:

(d) The right to appeal an application denial under paragraph (c) shall be contingent on the applicant having submitted the same or a substantially similar application to the Florida Schools of Excellence Commission or one of its cosponsors. Any such applicant whose application is denied by the commission or one of its cosponsors subsequent to its denial by the district school board may exercise its right to appeal the district school board's denial under paragraph (c) within 30 days after receipt of the commission's or cosponsor's denial or failure to act on the application. However, the applicant forfeits its right to appeal under paragraph (c) if it fails to submit its application to the commission or one of its cosponsors by August 1 of the school year immediately following the district school board's denial of the application.

(17) FUNDING.--Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district. Funding for a charter lab school shall be as provided in s. 1002.32.

(a) Each charter school shall report its student enrollment to the sponsor ~~district school board~~ as required in s. 1011.62, and in accordance with the definitions in s. 1011.61. The sponsor ~~district school board~~ shall include each

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charter school's enrollment in the district's report of student enrollment. All charter schools submitting student record information required by the Department of Education shall comply with the Department of Education's guidelines for electronic data formats for such data, and all districts shall accept electronic data that complies with the Department of Education's electronic format.

(18) FACILITIES.--

(f) To the extent that charter school facilities are specifically created to mitigate the educational impact created by the development of new residential dwelling units, pursuant to subparagraph (2)(c)4., some of or all of the educational impact fees required to be paid in connection with the new residential dwelling units may be designated instead for the construction of the charter school facilities that will mitigate the student station impact. Such facilities shall be built to the State Requirements for Educational Facilities and shall be owned by a public or nonprofit entity. The sponsor ~~local school district~~ retains the right to monitor and inspect such facilities to ensure compliance with the State Requirements for Educational Facilities. If a facility ceases to be used for public educational purposes, either the facility shall revert to the sponsor ~~school district~~ subject to any debt owed on the facility, or the owner of the facility shall have the option to refund all educational impact fees utilized for the facility to the sponsor ~~school district~~. The district and the owner of the facility may contractually agree to another arrangement for the facilities if the facilities cease to be used for educational

HB 7171

2006

415 | purposes. The owner of property planned or approved for new
416 | residential dwelling units and the entity levying educational
417 | impact fees shall enter into an agreement that designates the
418 | educational impact fees that will be allocated for the charter
419 | school student stations and that ensures the timely construction
420 | of the charter school student stations concurrent with the
421 | expected occupancy of the residential units. The application for
422 | use of educational impact fees shall include an approved charter
423 | school application. To assist the school district in forecasting
424 | student station needs, the entity levying the impact fees shall
425 | notify the affected district of any agreements it has approved
426 | for the purpose of mitigating student station impact from the
427 | new residential dwelling units.

428 | Section 3. This act shall take effect July 1, 2006.



Committee on Education Appropriations

**Tuesday, April 4, 2006
4:00 p.m. - 6:00 p.m.
212 Knott**

Amendment Packet

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

Bill No 135 CS

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill Education Appropriations

2 Committee

3 Representative Arza offered the following

4
5 **Amendment (with title amendment)**

6 Remove line 80 and insert the following

7
8 Section 2 Section 1002 335, Florida Statutes, is created to
9 read

10 1002 335 Florida Schools of Excellence Commission --

11 (1) FINDINGS --The Legislature finds that

12 (a) Charter schools are a critical component in the
13 state's efforts to provide efficient and high-quality schools
14 within the state's uniform system of public education

15 (b) Charter schools provide valuable educational options
16 and innovative learning opportunities while expanding the
17 capacity of the state's system of public education and
18 empowering parents with the ability to make choices that best
19 fit the individual needs of their children

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

20 (c) The growth of charter schools in the state has
21 contributed to enhanced student performance, greater efficiency,
22 and the improvement of all public schools

23 (d) The greatest challenges to the continued development
24 and success of uniform, high-quality charter schools are
25 administrative issues, accountability issues, and a lack of
26 sufficient communication and support from sponsors

27 (2) INTENT --It is the intent of the Legislature that

28 (a) There be established an independent, state-level
29 commission whose primary focus is the development and support of
30 charter schools in order to better meet the growing and diverse
31 needs of some of the increasing number and array of charter
32 schools in the state and to further ensure that charter schools
33 of the highest academic quality are approved and supported
34 throughout the state in an efficient manner

35 (b) New sources of community support in the form of
36 municipalities with knowledge of the unique needs of a
37 particular community or state universities, community colleges,
38 or regional educational consortia with special education
39 expertise should be authorized to participate in developing and
40 supporting charter schools that maximize access to a wide
41 variety of high-quality educational options for all students
42 regardless of disability, race, or socioeconomic status

43 (3) FLORIDA SCHOOLS OF EXCELLENCE COMMISSION --

44 (a) The Florida Schools of Excellence Commission is
45 established as an independent, state-level charter school
46 authorizing entity working in collaboration with the Department
47 of Education and under the supervision of the State Board of
48 Education Startup funds necessary to establish and operate the
49 commission may be received through private contributions and

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

50 federal and other institutional grants through the Grants and
51 Donations Trust Fund and the Educational Aids Trust Fund housed
52 within the department in addition to funds provided in the
53 General Appropriations Act The department shall assist in
54 securing federal and other institutional grant funds to
55 establish the commission

56 (b) The commission shall be appointed by the State Board
57 of Education and shall be composed of three appointees
58 recommended by the Governor, one of whom shall be the
59 Commissioner of Education or his or her designee, two appointees
60 recommended by the President of the Senate, and two appointees
61 recommended by the Speaker of the House of Representatives The
62 Governor, the President of the Senate, and the Speaker of the
63 House of Representatives shall each recommend a list of no fewer
64 than two nominees for any appointment to the commission The
65 appointments shall be made as soon as feasible but no later than
66 September 1, 2006 Each member shall serve a term of 2 years,
67 however, for the purpose of providing staggered terms, of the
68 initial appointments, three members shall be appointed to 1-year
69 terms and four members shall be appointed to 2-year terms
70 Thereafter, each appointee shall serve a 2-year term unless the
71 State Board of Education, after review, extends the appointment
72 If a vacancy occurs on the commission, it shall be filled by the
73 State Board of Education from a recommendation by the
74 appropriate authority according to the procedure set forth in
75 this paragraph The members of the commission shall annually
76 vote to appoint a chair and a vice chair Each member of the
77 commission must hold a bachelor's degree or higher, and the
78 commission must include individuals who have experience in
79 finance, administration, law, education, and school governance

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

80 (c) The commission is encouraged to convene its first
81 meeting no later than October 1, 2006, and, thereafter, shall
82 meet each month at the call of the chair or upon the request of
83 four members of the commission Four members of the commission
84 shall constitute a quorum

85 (d) The commission shall appoint an executive director
86 who shall employ such staff as is necessary to perform the
87 administrative duties and responsibilities of the commission

88 (e) The members of the commission shall not be
89 compensated for their services on the commission but may be
90 reimbursed for per diem and travel expenses pursuant to s
91 112 061

92 (4) POWERS AND DUTIES --

93 (a) The commission shall have the power to

94 1 Authorize and act as a sponsor of charter schools,
95 including the approval or denial of charter school applications
96 pursuant to subsection (8) and the nonrenewal or termination of
97 charter schools pursuant to s 1002 33(8)

98 2 Authorize only municipalities, state universities,
99 community colleges, and regional educational consortia to act as
100 cosponsors of charter schools, including the approval or denial
101 of cosponsor applications pursuant to State Board of Education
102 rule and subsection (5) and the revocation of approval of
103 cosponsors pursuant to State Board of Education rule and
104 subsection (7)

105 3 Approve or deny Florida Schools of Excellence (FSE)
106 charter school applications and renew or terminate charters of
107 FSE charter schools

108 (b) The commission shall have the following duties

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

109 1 Review charter school applications and assist in the
110 establishment of Florida Schools of Excellence (FSE) charter
111 schools throughout the state An FSE charter school shall exist
112 as a public school within the state as a component of the
113 delivery of public education within Florida's K-20 education
114 system

115 2 Develop, promote, and disseminate best practices for
116 charter schools and charter school sponsors in order to ensure
117 that high-quality charter schools are developed and
118 incentivized At a minimum, the best practices shall encourage
119 the development and replication of academically and financially
120 proven charter school programs

121 3 Develop, promote, and require high standards of
122 accountability for any school that applies and is granted a
123 charter under this section

124 4 Monitor and annually review and evaluate the
125 performance of the charter schools it sponsors and hold the
126 schools accountable for their performance

127 5 Report the student enrollment in each of its sponsored
128 charter schools to the district school board of the county in
129 which the school is located

130 6 Work with its cosponsors to monitor the financial
131 management of each FSE charter school

132 7 Direct charter schools and persons seeking to
133 establish charter schools to sources of private funding and
134 support

135 8 Actively seek, with the assistance of the department,
136 supplemental revenue from federal grant funds, institutional
137 grant funds, and philanthropic organizations The commission
138 may, through the department's Grants and Donations Trust Fund,

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

139 receive and expend gifts, grants, and donations of any kind from
140 any public or private entity to carry out the purposes of this
141 section

142 9 Review and recommend to the Legislature any necessary
143 revisions to statutory requirements regarding the qualification
144 and approval of municipalities, state universities, community
145 colleges, and regional educational consortia as cosponsors for
146 FSE charter schools

147 10 Review and recommend to the Legislature any necessary
148 revisions to statutory requirements regarding the standards for
149 accountability and criteria for revocation of approval of
150 cosponsors of FSE charter schools

151 11 Assist its cosponsors and FSE charter schools in
152 cooperating with district school boards to allow the charter
153 schools to utilize unused space within district public schools

154 12 Collaborate with municipalities, state universities,
155 community colleges, and regional educational consortia as
156 cosponsors for FSE charter schools for the purpose of providing
157 the highest level of public education to low-income, low-
158 performing, and underserved student populations Such
159 collaborations shall

160 a Allow state universities and community colleges that
161 cosponsor FSE charter schools to enable students attending a
162 charter school to take college courses and receive high school
163 and college credit for such courses

164 b Be used to determine the feasibility of opening
165 charter schools for children with autism that work with and
166 utilize the specialized expertise of the Centers for Autism and
167 Related Disabilities established and operated pursuant to s

168 1004 55

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

169 13 Support municipalities when the mayor or chief
170 executive, through resolution passed by the governing body of
171 the municipality, expresses an intent to cosponsor and establish
172 charter schools within the municipal boundaries

173 14 Meet the needs of charter schools and school
174 districts by uniformly administering high-quality charter
175 schools, thereby removing administrative burdens from the school
176 districts

177 15 Work with school districts to assist them in
178 effectively providing administrative services to their charter
179 schools

180 16 Perform all of the duties of sponsors set forth in s
181 1002 33(5)(b) and (20)

182 (5) APPROVAL OF COSPONSORS --

183 (a) The commission shall begin accepting applications by
184 municipalities, state universities, community colleges, and
185 regional educational consortia no later than January 31, 2007
186 The commission shall have 90 days from receipt of an application
187 under this paragraph to approve or deny the application unless
188 the 90-day period is waived by the applicant

189 (b) The commission shall limit the number of charter
190 schools that a cosponsor may approve pursuant to its review of
191 the cosponsor's application under paragraph (c) Upon
192 application by the cosponsor and review by the commission of the
193 performance of a cosponsor's current charter schools, the
194 commission may approve a cosponsor's application to raise the
195 limit previously set by the commission

196 (c) Any entity set forth in paragraph (a) that is
197 interested in becoming a cosponsor pursuant to this section

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

shall prepare and submit an application to the commission that provides evidence that the entity

1 Has the necessary staff and infrastructure or has established the necessary contractual or interagency relationships to ensure its ability to handle all of the administrative responsibilities required of a charter school sponsor as set forth in s 1002 33(20)

2 Has the necessary staff expertise and infrastructure or has established the necessary contractual or interagency relationships to ensure that it will approve and is able to develop and maintain charter schools of the highest academic quality

3 Has and is committed to providing and pursuing the necessary public and private financial resources and staff to ensure that it can monitor and support charter schools that are economically efficient and fiscally sound

4 Is committed to providing equal access to all students and to maintaining a diverse student population within its charter schools

5 Is committed to focusing on low-income, low-performing, and underserved student populations

6 Has articulated annual goals and expected outcomes for its charter schools as well as the methods and plans by which it will achieve those goals and outcomes

7 Has policies in place to protect its cosponsoring practices from conflicts of interest

(d) The commission's decision to deny an application or to revoke approval of a cosponsor pursuant to subsection (7) is not subject to chapter 120 and may be appealed to the State Board of Education pursuant to s 1002 33(6)

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

228 (6) COSPONSOR AGREEMENT --

229 (a) Upon approval of a cosponsor, the commission and the
230 cosponsor shall enter into an agreement that defines the
231 cosponsor's rights and obligations and includes the following

232 1 An explanation of the personnel, contractual and
233 interagency relationships, and potential revenue sources
234 referenced in the application as required in paragraph (5)(c)

235 2 Incorporation of the requirements of equal access for
236 all students, including any plans to provide transportation
237 reasonably necessary to provide access to as many students as
238 possible

239 3 Incorporation of the requirement to focus on low-
240 income, low-performing, and underserved student populations

241 4 An explanation of the goals and expected outcomes for
242 the cosponsor's charter schools and the method and plans by
243 which they will be achieved as referenced in the application

244 5 The conflict-of-interest policies referenced in the
245 application

246 6 An explanation of the disposition of facilities and
247 assets upon termination and dissolution of a charter school
248 approved by the cosponsor

249 7 A provision requiring the cosponsor to annually appear
250 before the commission and provide a report as to the information
251 provided pursuant to s 1002 33(9)(1) for each of its charter
252 schools

253 8 A provision requiring that the cosponsor report the
254 student enrollment in each of its sponsored charter schools to
255 the district school board of the county in which the school is
256 located

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

257 9 A provision requiring that the cosponsor work with the
258 commission to provide the necessary reports to the State Board
259 of Education

260 10 Any other reasonable terms deemed appropriate by the
261 commission given the unique characteristics of the cosponsor

262 (b) No cosponsor may receive applications for charter
263 schools until a cosponsor agreement with the commission has been
264 approved and signed by the commission and the appropriate
265 individuals or governing bodies of the cosponsor

266 (c) The cosponsor agreement shall be proposed and
267 negotiated pursuant to the timeframes set forth in s
268 1002 33(6)(1)

269 (d) The cosponsor agreement shall be attached to and
270 shall govern all charter school contracts entered into by the
271 cosponsor

272 (7) CAUSES FOR REVOCATION OF APPROVAL OF A COSPONSOR --If
273 at any time the commission finds that a cosponsor is not in
274 compliance, or is no longer willing to comply, with its contract
275 with a charter school or with its cosponsor agreement with the
276 commission, the commission shall provide notice and a hearing in
277 accordance with State Board of Education rule If after a
278 hearing the commission confirms its initial finding, the
279 commission shall revoke the cosponsor's approval The commission
280 may assume sponsorship over any charter school sponsored by the
281 cosponsor at the time of revocation Thereafter, the commission
282 may assume permanent sponsorship over such school or may direct
283 the school's governing body to apply to another cosponsor or to
284 the appropriate district school board for sponsorship

285 (8) CHARTER SCHOOL APPLICATION AND REVIEW --Charter
286 school applications submitted to the commission or to a

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

287 cosponsor approved by the commission pursuant to subsection (5)
288 shall be subject to the same requirements set forth in s
289 1002 33(6) The commission or cosponsor shall receive and review
290 all applications for FSE charter schools according to the
291 provisions of s 1002 33(6)(b) All references to a district
292 school board in s 1002 33(6)(b) shall refer to the commission
293 or its cosponsors that receive applications for review

294 (9) APPLICATIONS OF EXISTING CHARTER SCHOOLS --

295 (a) An application may be submitted pursuant to this
296 section by an existing charter school approved by a district
297 school board provided that the obligations of its charter
298 contract with the district school board will expire prior to
299 entering into a new charter contract with the commission or one
300 of its cosponsors A district school board may agree to rescind
301 or waive the obligations of a current charter contract to allow
302 an application to be submitted by an existing charter school
303 pursuant to this section A charter school that changes sponsors
304 pursuant to this subsection shall be allowed to continue the use
305 of all facilities, equipment, and other assets it owned or
306 leased prior to the expiration or rescission of its contract
307 with a district school board sponsor

308 (b) An application to the commission or one of its
309 cosponsors by a conversion charter school may only be submitted
310 upon consent of the district school board In such instance, the
311 district school board may retain the facilities, equipment, and
312 other assets of the conversion charter school for its own use or
313 agree to reasonable terms for their continued use by the
314 conversion charter school

315 (10) APPLICATION OF CHARTER SCHOOL STATUTE --The
316 provisions of s 1002 33(7)-(12), (14), and (16)-(19) shall

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

317 apply to the commission, cosponsors, and charter schools
318 approved pursuant to this section

319 (11) ACCESS TO INFORMATION --The commission shall provide
320 maximum access to information to all parents in the state It
321 shall maintain information systems, including, but not limited
322 to, a user-friendly Internet website, that will provide
323 information and data necessary for parents to make informed
324 decisions At a minimum, the commission must provide parents
325 with information on its accountability standards, links to
326 schools of excellence throughout the state, and public education
327 programs available in the state

328 (12) ANNUAL REPORT --Each year, the chair of the
329 commission shall appear before the State Board of Education and
330 submit a report regarding the academic performance and fiscal
331 responsibility of all charter schools and cosponsors approved
332 under this section

333 (13) IMPLEMENTATION --The State Board of Education shall
334 adopt rules pursuant to ss 120 536(1) and 120 54 necessary to
335 facilitate the implementation of this section

336 Section 3 Paragraphs (d), (e), (f), (g), and (h) of
337 subsection (6) of section 1002 33, Florida Statutes, are
338 redesignated as paragraphs (e), (f), (g), (h), and (i),
339 respectively, a new paragraph (d) is added to that subsection,
340 paragraph (o) is added to subsection (9) of that section, and
341 paragraph (a) of subsection (17) and paragraph (f) of subsection
342 (18) of that section are amended, to read

343 1002 33 Charter schools --

344 (6) APPLICATION PROCESS AND REVIEW --Beginning September
345 1, 2003, applications are subject to the following requirements

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

(d) The right to appeal an application denial under paragraph (c) shall be contingent on the applicant having submitted the same or a substantially similar application to the Florida Schools of Excellence Commission or one of its cosponsors Any such applicant whose application is denied by the commission or one of its cosponsors subsequent to its denial by the district school board may exercise its right to appeal the district school board's denial under paragraph (c) within 30 days after receipt of the commission's or cosponsor's denial or failure to act on the application However, the applicant forfeits its right to appeal under paragraph (c) if it fails to submit its application to the commission or one of its cosponsors by August 1 of the school year immediately following the district school board's denial of the application

(9) CHARTER SCHOOL REQUIREMENTS --

(o) As a public school, a charter school shall meet the class size requirements pursuant to s 1003 03

(17) FUNDING --Students enrolled in a charter school, regardless of the sponsorship, shall be funded as if they are in a basic program or a special program, the same as students enrolled in other public schools in the school district Funding for a charter lab school shall be as provided in s 1002 32

(a) Each charter school shall report its student enrollment to the sponsor ~~district school board~~ as required in s 1011 62, and in accordance with the definitions in s 1011 61 The sponsor ~~district school board~~ shall include each charter school's enrollment in the district's report of student enrollment All charter schools submitting student record information required by the Department of Education shall comply with the Department of Education's guidelines for electronic

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

data formats for such data, and all districts shall accept electronic data that complies with the Department of Education's electronic format

(18) FACILITIES --

(f) To the extent that charter school facilities are specifically created to mitigate the educational impact created by the development of new residential dwelling units, pursuant to subparagraph (2)(c)4 , some of or all of the educational impact fees required to be paid in connection with the new residential dwelling units may be designated instead for the construction of the charter school facilities that will mitigate the student station impact Such facilities shall be built to the State Requirements for Educational Facilities and shall be owned by a public or nonprofit entity The sponsor ~~local school district~~ retains the right to monitor and inspect such facilities to ensure compliance with the State Requirements for Educational Facilities If a facility ceases to be used for public educational purposes, either the facility shall revert to the sponsor ~~school district~~ subject to any debt owed on the facility, or the owner of the facility shall have the option to refund all educational impact fees utilized for the facility to the sponsor ~~school district~~ The district and the owner of the facility may contractually agree to another arrangement for the facilities if the facilities cease to be used for educational purposes The owner of property planned or approved for new residential dwelling units and the entity levying educational impact fees shall enter into an agreement that designates the educational impact fees that will be allocated for the charter school student stations and that ensures the timely construction of the charter school student stations concurrent with the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

406 expected occupancy of the residential units The application for
407 use of educational impact fees shall include an approved charter
408 school application To assist the school district in forecasting
409 student station needs, the entity levying the impact fees shall
410 notify the affected district of any agreements it has approved
411 for the purpose of mitigating student station impact from the
412 new residential dwelling units

413 Section 4 This act shall take effect July 1, 2006

414
415
416 ===== T I T L E A M E N D M E N T =====

417 Remove line(s) 13-14 and insert

418
419 assumption of contractual debts, creating s 1002 335, F S ,
420 providing findings and intent, establishing the Florida Schools
421 of Excellence Commission as a charter school authorizing entity,
422 providing for startup funds, providing for membership of the
423 commission, providing powers and duties of the commission,
424 including serving as a sponsor of charter schools, approving
425 certain entities to act as cosponsors, approving or denying
426 applications for Florida Schools of Excellence (FSE) charter
427 schools, and developing standards for and evaluating the
428 performance of charter schools, requiring collaboration with
429 municipalities, state universities, community colleges, and
430 regional educational consortia as cosponsors for FSE charter
431 schools, providing requirements for approval of cosponsors by
432 the commission, providing components of required cosponsor
433 agreements, providing causes for revocation of approval of a
434 cosponsor, providing for FSE charter school application and
435 review procedures, authorizing existing charter schools to apply

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

436 as FSE charter schools, providing for application of specified
437 provisions of law, requiring access to information by parents,
438 requiring the commission to submit an annual report, requiring
439 rulemaking, amending s 1002 33, F S , providing requirements
440 with respect to the right to appeal a charter school application
441 denial, requiring that a charter school meet class size
442 requirements, revising provisions relating to reporting of
443 charter school student enrollment for purposes of funding,
444 revising requirements relating to charter school facilities
445 created to mitigate a certain educational impact, providing an
446 effective date

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Amendment No 01

COUNCIL/COMMITTEE ACTION

OTHER _____

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

Bill No 1237 CS

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill Education Appropriations

Committee

Representative Pickens offered the following

Amendment (with title amendment)

Remove line(s) 294-320 and insert

Section 2 For the 2006-2007 fiscal year, the sum of \$100 million is appropriated from nonrecurring general revenue to the Board of Governors of the State University System, of which \$50 million shall be allocated for the 21st Century World Class Scholars Program and \$50 million for the Centers of Excellence Program

===== T I T L E A M E N D M E N T =====

Remove line(s) 35-37 and insert

expiration of the act, providing appropriations, providing an effective date

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 02

Bill No HB 1237 CS

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER _____

Council/Committee hearing bill Education Appropriations

Representative(s) Mealor offered the following

Amendment (with title amendment)

Remove line(s) 83-270 and insert

(b) "Board" means the Florida Technology, Research, and
Scholarship Board

(c) "Center of Excellence" means an organization of
personnel, facilities, and equipment established to accomplish
the purposes and objectives of this act

(d) "Community college" means a Florida public community
college as defined in s 1000 21

(e) "Private university" means a baccalaureate degree-
granting independent nonprofit university which is accredited by
the Commission on Colleges of the Southern Association of
Colleges and Schools and which is located in and chartered as a
domestic corporation by the state

(f) "Research center" means an institute, center, or
clinic that includes research and development or education as a
principal mission of the organization

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 02

21 (g) "State university" means a Florida public university
22 as defined in s 1000 21

23 (4) FLORIDA TECHNOLOGY, RESEARCH, AND SCHOLARSHIP
24 BOARD --The Florida Technology, Research, and Scholarship Board
25 is created within the Board of Governors of the State University
26 System to guide the establishment of Centers of Excellence and
27 the attraction of world class scholars

28 (a) The board shall consist of 11 members Seven members
29 shall be appointed by the Governor, one of whom the Governor
30 shall appoint as chair of the board, one of whom must be a
31 member of the board of directors of Enterprise Florida, Inc ,
32 and one of whom must be a member of the Board of Governors of
33 the State University System Two members shall be appointed by
34 the President of the Senate and two members shall be appointed
35 by the Speaker of the House of Representatives Appointed
36 members must be representative of business leaders, industrial
37 researchers, academic researchers, scientists, and leaders in
38 the emerging and advanced technology sector Appointed members
39 may not serve for more than 4 years and any vacancy that occurs
40 during these appointees' terms shall be filled in the same
41 manner as the original appointment A majority of members
42 constitutes a quorum

43 (b) Members of the board shall serve without compensation,
44 but are entitled to receive reimbursement for per diem and
45 travel expenses in accordance with s 112 061 while in the
46 performance of their duties

47 (c) The Board of Governors shall provide staff support for
48 the activities of the board and per diem and travel expenses for
49 board members

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 02

50 (d) The board is charged with recommending criteria to the
51 Board of Governors for the 21st Century World Class Scholars
52 Program and with providing guidance to the Board of Governors
53 regarding the implementation and administration of the Centers
54 of Excellence Program The board shall recommend to the Board of
55 Governors the qualifications, standards, and requirements for
56 approval of investments in Centers of Excellence under this act
57 The board may form committees of its members and is encouraged
58 to consult with Enterprise Florida, Inc , the Florida Research
59 Consortium, Bio-Florida, IT Florida, the Florida Aviation and
60 Aerospace Alliance, and any other entity whose input may be
61 helpful in determining the requirements and standards for the
62 program

63 (5) THE 21ST CENTURY WORLD CLASS SCHOLARS PROGRAM --

64 (a) This act allocates state matching funds to attract
65 21st Century World Class Scholars to state universities

66 (b) The 21st Century World Class Scholars Program shall be
67 used as a tool to develop the state's capabilities in science
68 and high-technology research, emphasizing Florida's identified
69 strengths in science and technology while also recognizing new
70 technologies as they may emerge

71 (c) The board, in consultation with senior administrators
72 of state universities, state university foundation directors,
73 the Office of Tourism, Trade, and Economic Development, the
74 board of directors of Enterprise Florida, Inc , and leading
75 members of private industry, shall develop and recommend to the
76 Board of Governors criteria for the 21st Century World Class
77 Scholars Program Such criteria shall address, at a minimum, the
78 following

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 02

79 1 The presence of distinguished faculty members,
80 including whether the university has a substantial history of
81 external funding, along with the strong potential for attracting
82 a scholar of national or international eminence

83 2 The presence of academically outstanding students,
84 along with the promise and potential for attracting additional
85 highly qualified students

86 3 The presence of adequate research and scholarly support
87 services

88 4 The existence of an academic environment having
89 appropriate infrastructure, including buildings, classrooms,
90 libraries, laboratories, and specialized equipment, that is
91 conducive to the conduct of the highest quality of scholarship
92 and research

93 5 The demonstration of concordance with Florida's
94 strategic plan for economic development or an emphasis on one or
95 more emerging sciences or technologies that could favorably
96 impact the state's economic future

97 (d) A state university must raise a minimum of \$1 million
98 to be eligible for state matching funds to recruit a 21st
99 Century World Class Scholar Funds raised by the university
100 shall be eligible for a one-to-one match from the state
101 Revenues received from state appropriations, student tuition and
102 fees, and state-funded contracts or grants are not eligible for
103 state match

104 (e) Upon the verification by the Board of Governors that a
105 state university has met the criteria for a 21st Century World
106 Class Scholar, the Board of Governors shall release matching
107 funds to the university Funds shall be used for the purpose of
108 recruiting a 21st Century World Class Scholar and shall be

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 02

109 expended according to an expenditure plan approved by the Board
110 of Governors

111 (f) Nothing in this act is intended to replace or obviate
112 existing programs

113 (6) CENTERS OF EXCELLENCE --

114 (a) The purposes and objectives of a Center of Excellence
115 include

116 1 Identifying and pursuing opportunities for university
117 scholars, research center scientists and engineers, and private
118 businesses to form collaborative partnerships to foster and
119 promote the research required to develop commercially promising,
120 advanced, and innovative science and technology and to transfer
121 those discoveries to commercial sectors

122 2 Acquiring and leveraging public-sector and private-
123 sector funding to provide the totality of funds, personnel,
124 facilities, equipment, and other resources needed to support the
125 research required to develop commercially promising, advanced,
126 and innovative science and technology and to transfer those
127 discoveries to commercial sectors

128 3 Recruiting and retaining world class scholars, high-
129 performing students, and leading scientists and engineers in
130 technology disciplines to engage in research in this state and
131 to develop commercially promising, advanced, and innovative
132 science and technology

133 4 Enhancing and expanding science and technology
134 curricula and laboratory resources at universities and research
135 centers in this state

136 5 Increasing the number of high-performing students in
137 science and technology disciplines who graduate from
138 universities in this state and pursue careers in this state

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 02

6 Stimulating and supporting the inception, growth, and diversification of science and technology-based businesses and ventures in Florida and increasing employment opportunities for the workforce needed to support such businesses

(b) The following entities are eligible to submit proposals for a Center of Excellence

1 Any state university

2 Any private university

3 The H Lee Moffitt Cancer Center and Research Institute

4 The Florida Institute for Human and Machine Cognition, Inc

5 Any community college, training center, or other public or private research center in the state that coordinates with a state university for purposes of this act

(c) The board shall recommend to the Board of Governors criteria for approving proposals to create or expand a Center of Excellence Such criteria shall consider

1 The maturity of the applicant's existing programs relating to a proposed Center of Excellence

2 The comprehensiveness and effectiveness of site plans relating to a proposed Center of Excellence

3 The existing amount of the applicant's resources dedicated to activities relating to a proposed Center of Excellence

4 The regional economic structure and climate

5 The degree to which the applicant identifies and seizes opportunities to collaborate with other public or private entities for research purposes

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 02

168 6 The presence of a comprehensive performance and
169 accountability measurement system

170 7 The use of an integrated research and development
171 strategy using multiple levels of the educational system

172 8 The ability of the applicant to raise research funds
173 and leverage public and private investment dollars to support
174 advanced and emerging scientific and technological research and
175 development projects

176 9 The degree to which the applicant transfers advanced
177 and emerging sciences and technologies from its laboratories to
178 the commercial sector

179 10 The degree to which the applicant stimulates and
180 supports the creation of new ventures

181 11 The existence of a plan to enhance academic curricula
182 by improving communication between academia and industry

183 12 The existence of a plan to increase the number,
184 quality, and retention rate of faculty and graduate students in
185 advancing and emerging science and technology-based disciplines

186 13 The existence of a plan to increase the likelihood of
187 faculty and graduate students pursuing private-sector careers in
188 the state

189 14 The ability of the applicant to provide capital
190 facilities necessary to support research and development

191 (d) The board shall periodically solicit proposals for
192 Centers of Excellence To call for proposals, the board shall
193 notify the president or chief executive officer of the eligible
194 entities identified in paragraph (b)

195 (e) The board shall recommend to the Board of Governors
196 for approval and funding those proposals that meet the criteria
197 approved by the Board of Governors

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 02

198 (f) If no proposal is judged worthy of approval during a

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201 ===== T I T L E A M E N D M E N T =====

202 Remove line(s) 27 and insert

203 the Centers of Excellence, specifying entities eligible to

204 submit proposals, requiring the board to

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

Bill No 7097

COUNCIL/COMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	—	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

1 Council/Committee hearing bill Education Appropriations

2 Committee

3 Representative Pickens offered the following

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5 **Amendment (with title amendment)**

6 Remove line(s) 138-223

7
8 ===== T I T L E A M E N D M E N T =====

9 Remove line(s) 18-26 and insert

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11 amending s 1009 50, F S , creating s 1011 802, F S ,

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

Bill No 7103

COUNCIL/COMMITTEE ACTION

ADOPTED ___ (Y/N)
ADOPTED AS AMENDED ___ (Y/N)
ADOPTED W/O OBJECTION ___ (Y/N)
FAILED TO ADOPT ___ (Y/N)
WITHDRAWN ___ (Y/N)
OTHER _____

Council/Committee hearing bill Education Appropriations
Committee

Representative Pickens offered the following

Amendment (with title amendment)

Remove line(s) 1561-1601

===== T I T L E A M E N D M E N T =====

Remove line(s) 45-48 and insert

conforming provisions, amending s 1003 05, F S , modifying the
list of

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 02

Bill No 7103

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill Education Appropriations

Committee

Representative Pickens offered the following

Amendment (with title amendment)

Remove line(s) 1642-1806

===== T I T L E A M E N D M E N T =====

Remove line(s) 52-56 and insert

charter school personnel, providing effective dates

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 03

Bill No HB 7103

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill Education Appropriations
Representative(s) Stargel offered the following

Amendment

Remove line 463-468 and insert
flexibility to meet educational goals The ~~applicant and~~ sponsor
shall have 60 days to provide an initial proposed charter
contract to the charter school The applicant and the sponsor
shall have ~~and 75 days thereafter to negotiate and execute the~~
final charter contract ~~6 months in which to mutually agree to~~
~~the provisions of the charter~~ The proposed charter contract
shall be provided to the charter school at least 7

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 04

Bill No HB 7103

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER _____

Council/Committee hearing bill Education Appropriations

Representative(s) Traviesa offered the following

Amendment

Between lines 1299 and 1300 insert

(g) Each school district shall annually provide to the
Department of Education as part of their 5 year workplan the
number of existing vacant classrooms in each school that the
district does not intend to use or does not project will be
needed for educational purposes for the following school year
The department may recommend that the district make such space
available to an appropriate charter school

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 05

Bill No HB 7103

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill Education Appropriations
Representative(s) Stargel offered the following

Amendment

Remove line(s) 1645-1686 and insert

(1) In each year in which funds are appropriated for
charter school capital outlay purposes, the Commissioner of
Education shall allocate the funds among eligible charter
schools If an appropriation for charter school capital outlay
funds is equal to or less than the appropriation in the 2005-
2006 fiscal year, the funds shall be prorated among charter
schools that received capital outlay funding in the 2005-2006
fiscal year ~~To be eligible for a funding allocation, a charter
school must~~

(2) If an appropriation for charter school capital outlay
funds is greater than the appropriation in the 2005-2006 fiscal
year, the funds over and above such appropriation shall be
allocated to charter schools that

(a) Are receiving funds under subsection (1) provided that
the total funds received under this section do not exceed one-

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 05

fifteenth of the cost per student station specified in s
1013 64 (6) (b), or

(b) Maintained a school letter grade of "A", "B", or "C"
pursuant to s 1008 34, during at least 2 of the past 3 school
years, or

(c) Do not receive a school letter grade pursuant to s
1008 34, but are able to show learning gains as set forth by
rule of the State Board of Education

(3) Charter schools identified as Title I schools shall
receive a one-letter grade improvement for the purpose of
calculating eligibility for these capital outlay funds under
this section

~~—— (a) 1 Have been in operation for 3 or more years,~~
~~—— 2 Be an expanded feeder chain of a charter school within~~
~~the same school district that is currently receiving charter~~
~~school capital outlay funds, or~~

~~—— 3 Have been accredited by the Commission on Schools of~~
~~the Southern Association of Colleges and Schools~~

~~—— (b) Have financial stability for future operation as a~~
~~charter school~~

~~—— (c) Have satisfactory student achievement based on state~~
~~accountability standards applicable to the charter school~~

~~—— (d) Have received final approval from its sponsor pursuant~~
~~to s 1002 33 for operation during that fiscal year~~

~~—— (e) Serve students in facilities that are not provided by~~
~~the charter school's sponsor~~

(4) With regard to the allocation of funds under subsection
(2), schools that receive a school letter grade of "C" pursuant
to s 1008 34 receive a per student base allocation of 1 0
Schools that receive a school letter grade of "B" pursuant to s

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 05

51 1008 34 receive the base allocation plus 0 5 Schools that
52 receive a school letter grade of "A" pursuant to s 1008 34
53 receive the base allocation plus 1 0 Schools not receiving a
54 grade under s 1008 34 shall receive a per student base
55 allocation of 1 0

56 (5) Charter schools that lack financial stability for
57 future operation as a charter school, or that serve students in
58 facilities that are provided by the charter school's sponsor
59 shall not be eligible for funding under this section

60

61 Prior to the release of

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

Bill No 7119

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill Education Appropriations
Committee

Representative Pickens offered the following

Amendment (with title amendment)

Remove line(s) 78-81

===== T I T L E A M E N D M E N T =====

Remove line 11 and insert

Association member schools, providing an appropriation,

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

Bill No 7171

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)

ADOPTED AS AMENDED _____ (Y/N)

ADOPTED W/O OBJECTION _____ (Y/N)

FAILED TO ADOPT _____ (Y/N)

WITHDRAWN _____ (Y/N)

OTHER _____

Council/Committee hearing bill Education Appropriations

Committee

Representative Pickens offered the following

Amendment (with title amendment)

Remove line 428 and insert

Section 3 The following sums of money and full-time
equivalent positions are appropriated from recurring general
revenue to the State Board of Education for the 2006-2007 fiscal
year for the purpose of administering this act

(1) Three full-time equivalent positions and 165,000 in
approved annual salary rate,

(2) The sum of \$214,630 from recurring general revenue funds
for salaries and benefits,

(3) The sum of \$199,238 from recurring general revenue funds
for expenses,

(4) The sum of \$5,700 from nonrecurring general revenue funds
for operating capital outlay, and

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 01

(5) The sum of \$1,179 recurring general revenue funds for transfer to the Department of Management Services for the Human Resource Services Statewide Contract

Section 4 This act shall take effect July 1, 2006

===== T I T L E A M E N D M E N T =====

Remove line 31 and insert

impact, providing an appropriation, providing an effective date

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No 02

Bill No 7171

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill Education Appropriations

Committee

Representative(s) Legg offered the following

Amendment

Remove line(s) 334-337 and insert

(10) APPLICATION OF CHARTER SCHOOL STATUTE -

(a) The provisions of s 1002 33(7)-(12), (14), and (16)-(19) shall apply to the commission, cosponsors, and charter schools, approved pursuant to this section

(b) The provisions of s 1002 33(20) are also incorporated herein and shall apply to the commission, cosponsors, and charter schools, approved pursuant to this section, with the exception that the commission or a cosponsor of a charter school approved pursuant to this section may retain no more than the actual cost of its administrative overhead costs expended to sponsor the charter school not to exceed 5 percent of the funding provided to the charter school

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